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JOURNAL

OF

THE SENATE

OF THE

State of Mississippi,

AT

A CALLED SESSION THEREOF,

HELD IN THE

TOWN OF JACKSON.

PRINTED BY ORDER OF THE SENATE.

JACKSON.
PRINTED BY G. R. & J. S. FALL.

1835.

JOURNAL OF THE SENATE

OF THE

STATE OF MISSISSIPPI.

MONDAY, JANUARY 19, 1835.

The Senate convened at 12 o'clock, (meridian,) in the Senate Chamber, pursuant to the Proclamation of His Excellency, HIRAM G. RUNNELLS, Governor of the State of Mississippi; said Proclamation is in the words and figures following, to wit:

WHEREAS, it is made the duty of the Governor, by the Constitution of the State, to convene the Legislature in cases of emergency;

And, whereas, the Legislature, on the 25th day of December, 1833, did enact, that the Governor of the State should cause to be discounted at bank, the notes taken for the purchase money of lots sold in the town of Jackson, to the amount of seventy thousand dollars, and apply the proceeds to the erection of the State House then in progress; the refusal of the Bank to discount the notes for want of form, has disappointed the expectations of the Legislature, and the further progress of the building must be suspended, without early legislative action.

And, whereas, by the late Treaty with the Chickasaw tribe of Indians, an important portion of Mississippi is acquired, over which it is the policy of the State, and peculiarly interesting to the immediate residents, that legislation should extend to them as soon as practicable.

And, whereas, the total disorganization of the Militia, no regiment being formed in any one of the new counties, with many other inconveniences, under which that part of the State labors, renders it highly essential that the Legislature should be convened previously to the day fixed by law for the next regular meeting.

And, whereas, a Senatorial term in the Congress of the United States, will expire on the 4th day of March next;

it is a matter of great importance that the act of the Legislature of 5th February, 1830, should be complied with and an election had, to fill the succeeding term.

Therefore, be it known, that by virture of the powers in me vested by the Constitution, as Governor of the State of Mississippi, I do hereby convene the Legislature, and do require the members thereof, to assemble at the town of Jackson, the Seat of Government for the State, on the *third Monday of January next.*

Given under my hand and the great Seal of the State, at Jackson, the 27th of November, 1834.

H. G. RUNNELLS.

The members who appeared and took their seats in the Senate Chamber, PARMENAS BISCOE, the Senator from the Senatorial District, composed of the County of Claiborne, he being the President of the Senate.

SILAS BROWN, the Senator from the Senatorial District composed of the County of Hinds.

DAVID DAVIS, the Senator from the Senatorial District composed of the Counties of Amite and Franklin.

RICHARD A. HARGIS, the Senator from the Senatorial District, composed of the Counties of Lawrence, Simpson and Covington.

JESSE HARPER, the Senator from the Senatorial District composed of the Counties of Pike and Marion.

JOHN HENDERSON, the Senator from the Senatorial District composed of the County of Wilkinson.

THOMAS P. FALCONER, the Senator elect from the Eastern Senatorial District, composed of the Counties of Wayne, Green, Jackson, Hancock, Jones and Perry, appeared, delivered his credentials, was qualified and took his seat in the Senate Chamber.

The known members of the Senate, absent were Messrs. THOMAS LAND, the Senator from the Senatorial District composed of the Counties of Madison, Yazoo and Holmes;

EUGENE MAGEE, the Senator from the Senatorial District composed of the Counties of Warren and Washington.

STEPHEN COCKE, the Senator from the Senatorial District composed of the Counties of Monroe, Lowndes and Rankin; and

SOLOMON TRACEY, the Senator from the Senatorial District composed of the Counties of Copiah and Jefferson.

Before any business was transacted, Mr. Henderson moved that the Senate adjourn to to-morrow morning at 10 o'clock—but before the sense of the Senate was taken on Mr. Henderson's motion to adjourn, Mr. Hargis asked that the motion to adjorun might be withdrawn to enable him

to offer a resolution—the motion to adjourn was not withdrawn—and the Senate after some delay, during which, no business was transacted, adjourned to ten o'clock to morrow morning.

TUESDAY, JANUARY 20, 1835.

The Senate convened in the Senate Chamber pursuant to adjournment of yesterday.

The Journal of the 19th instant was read.

Present the same Senators as on yesterday, and in addition thereto Messrs. Thomas Land, the Senator from the Senatorial District composed of the counties of Yazoo, Madison and Holmes; and Solomon Tracey, the Senator from the Senatorial District composed of the counties of Copiah and Jefferson, appeared and took their seats in the Senate Chamber.

The Message following was received from the House of Representatives, by James Cornell, their Clerk: to wit

"MR PRESIDENT:

The House of Representatives have formed a quorum. and are now ready to proceed to business."

MR. BROWN presented the following Resolution, to wit:

"*Resolved*, That the Secretary of the Senate inform the House of Representatives, that the Senate have met, formed a quorum, and are now ready to proceed to business."

And said Resolution being read and considered, the Senate refused to pass the same.

MR. BROWN also presented the following Resolution, to wit:

"*Resolved*, That the Editors of public newspapers in this this State, severally, be allowed a seat within the bar of the Senate, for the purpose of noting its proceedings for publication."

And the same being read and considered by the Senate, was adopted.

The following Resolution was presented by Mr. Hargis, to wit:

"*Resolved* That the Rules adopted for the Government of the Senate, at its last session, be adopted for the Government of the Senate at this session."

And the Resolution last aforesaid, being read and considered by the Senate, was adopted;

And then on motion of Mr. Land, the Senate adjourned to half past two o'clock, P. M., this day.

HALF PAST TWO O'CLOCK.

The Senate convened pursuant to adjournment.

John A. Quitman, the Senator elected from the Senatorial District, composed of the county of Adams, in the place of Fountain Winston, deceased, appeared in the Senate Chamber, when Mr. Henderson presented Mr. Quitman's credentials—he was then qualified and took his seat, as the Senator from the district last aforesaid.

Mr. Brown offered the following resolution, to wit:

"*Resolved*, That the Secretary of the Senate be instructed to inform the House of Representatives, that the Senate have met, formed a quorum, and are now ready to proceed to business."

And the same having been read and considered, the Senate refused to pass the same by yeas and nays as follows, to wit:

Ayes.—Mr. President, (Briscoe,) and Messrs. Brown, Davis, Hargis and Tracy.—5.

Nays.—Messrs. Falconer, Harper, Henderson, Land, Magee, and Quitman.—6.

The Senate then adjourned to ten o'clock, A. M. tomorrow.

WEDNESDAY, January 21, 1835.

The Senate convened pursuant to adjournment.

Stephen Cocke, the Senator from the senatorial district composed of the counties of Monroe, Lowndes, and Rankin, appeared and took his seat in the Senate chamber.

The journal of the 20th inst. was read.

The President of the Senate announced a communication from John H. Mallory, Auditor of Public Accounts.

On motion of Mr. Hargis, the communication was laid on the table.

Mr. Brown presented the following resolution, to wit:

Resolved, That the Secretary of the Senate be instructed to inform the House of Representatives, forthwith, that the Senate have convened, formed a quorum, and are now ready to proceed to legislative business.

And the same being read and considered by the Senate, was adopted.

Mr. Henderson presented the following resolutions, for the consideration of the Senate, to wit:

"*Resolved*, That there be a committee of three mem-

bers, to be appointed by the President, to whom it shall be referred, to inquire and make report, whether the two bodies of which this is one, and now assembled under the Executive convocation, as the Legislature of the State of Mississippi, be or not the legislature, recognized and established by the constitution and laws of the land.

"*Resolved*, That said committee inquire and make report of the mode and manner by which said bodies have been convoked; whether or not, other and different persons than those which constituted the Legislature of the State of Mississippi, at its session on the sixteenth of November, one thousand eight hundred and thirty-three, and such others as have succeeded to fill vacancies since happening in either House, as then constituted, and now assembled and composing any portion or all of either of said bodies.

"*Resolved*, That said committee inquire and make report whether or not the two bodies be so assembled and composed of such members and description of persons as are appointed by the constitution and laws of the land constituent members of the Legislature of the State of Mississippi, and whether each of the two bodies be so organized, that this House, in concert with the other body now assembled as the House of Representatives, can enter upon a constitutional discharge of their legislative duties.

"*Resolved*, That said committee carefully abstain from an inquiry into the qualifications and elections of any individual member of the body now assembled as the House of Representatives, but that their investigations be limited to the organization of the two bodies aforesaid in their aggregate character, as houses respectively known to the constitution as forming distinct branches of the legislature: and that said committee report all the causes, if any there be, why the two houses, thus assembled, are not the Senate and House of Representatives of the State of Mississippi.

"*Resolved*, That said committee, in the prosecution of their inquiries, have full power to send for persons and papers.

"*Resolved*, That said committee report with all due diligence, and that until said report be made, this body forbear all legislative action."

On motion of Mr Cocke, the resolutions last aforesaid were laid on the table.

On motion of Mr Hargis, the following resolution was adopted, to wit:

"*Resolved*, With the concurrence of the House of Representatives, that three members be appointed a committee on the part of the Senate to act jointly with suchcom-

mittee as may be appointed on the part of the House of Representatives, to wait on his excellency the Governor, and inform him that the two houses have met and organized, agreeably to his proclamation, and are now ready to receive any communication that he may be pleased to make; and that the Secretary inform the House thereof.

And thereupon the President appointed, as the committee on the part of the Senate, Messrs. Hargis, Cocke, and Maury.

Mr. Falconer called for the consideration of the resolutions this day, presented by Mr. Henderson, and which had been laid upon the table; and the call being sustained, Mr. Falconer moved to print fifty copies thereof.

Mr. Brown, one hundred copies,

Mr. Magee, two hundred copies.

And thereupon, the Secretary was ordered to cause the number last named to be printed.

On motion of Mr. Quitman the following resolution was adopted, to wit:

"*Resolved*, That the door-keeper be directed to furnish seats within the bar of the Senate chamber for the accommodation of members of the House of Representatives, and such officers of the state as the President shall direct."

The following message was received from the House of Representatives, by Mr. Cornell, their Clerk, to wit:

MR. PRESIDENT:

"The House of Representatives have concurred in the resolution from the Senate in relation to the appointment of the usual joint committee to wait upon his Excellency, the Governor, and inform him of the organization of the two houses, and have on their part appointed Messrs. Hopkins, Dale, Van Norman, Leflore and Maury."

And then the Senate adjourned to 3 o'clock, P. M.

THREE O'CLOCK P. M.

The Senate convened, pursuant to adjournment, Mr. Hargis as Chairman of the Joint Committee, appointed this day to wait on his Excellency, the Governor, made the following report:

MR. PRESIDENT:

The Joint Committtee, appointed to wait on his Excellency the Governor, for the purpose of acquainting him of the organization of the Houses, and their readiness to receive any communication which he might be pleased to make to them, have performed that duty, and have received for answer, that his Excellency, on this day, at half past three o'clock P. M., will make a Communication to both Houses in writing.

The President laid before the Senate a Communication from the State Treasurer, enclosing his annual Financial Report; said Communication and Report was then read, and is as follows, to-wit:

TREASURER'S OFFICE,

JACKSON, *January* 19, 1835.

To the honorable

the Legislature of the State of Mississippi:

In pursuance of the sixth section of an act of the Legislature of the State of Mississippi, entitled "An act to define the duties of the State Treasurer, and to establish his salary," approved, the 2d of March, 1833, the undersigned presents to your honorable body the following Report.

JAMES PHILLIPS,

State Treasurer.

The amount remaining in the Treasury, on the nineteeth day of November, one thousand eight hundred and thirty-three, as shewn by the Treasurer's annual report of that date was - - - - - -	$17,569 78	
The receipts into the Treasury from the nineteenth day of November, 1833, up to the last day of Febuary, 1834, (the end of the Fiscal year) were as follows, to wit:		
Amount received on account of State Taxes, and other sums, classes under the head of State of Mississippi, during the period above mentioned, was -	12,353 68¼	
Amount received on account of the contingent fund for the Executive Department, during the same period - - - - - -	438 20	
Amount received on account of leases of Seminary land, during the same period	481 44¼	
Amount received on account of literary fund during the same period -	157 40	
Which being added to the aforesaid balance, in the Treasury on 19th November 1833, is equal to - - - - - - -		$31,000 46¼
The disbursements under the various heads of public expenditure from the 19th day of November, one thousand eight hundred and thirty-three, up to the last day of February 1834, (the end of the Fiscal year) were as follows to wit:		
Disbursed on account of the Legislative Department, during the period above mentioned - - - - - - - - -	11,078 31	
Disbursed on account of the Executive Department, during the same period	3,011 10¼	
Disbursed on account of the Judiciary Department, during the same period	5,242 60	
Disbursed on account of the Appropriations, during the same period -	6,215 08¼	

Disbursed on account of the Census Department, during the same period -	453 04	
Disbursed on account of the Seminary Lands, during the same period -	229 50	
Disbursed on account of the Contingent Fund, for the Executive Department, during the same period - - - - - -	88 00	
Disbursed on account of Elections, during the same period - - -	10 00	
Disbursed on account of the State of Mississippi, during the same period -	607 08	
Disbursed on account of the Contingent Fund for Incidental Expenses, of the State House, during the same period, - - - - - -	227 25	
Which is equal to - - - - - -		27,161 97½
And which deducted from the total receipts, shews a balance remaining in the Treasury on the first day of March, one thousand eight hundred and thirty-four, the commencement of the Fiscal year of 1834 of - - - -		3,838 49
The total amount of receipts into the Treasury, from the first day of March, one-thousand eight hundred and thirty four, the commencement of the Fiscal year, up till this time, are as follows, to wit:		
Received on account of State Taxes and other sums, classed under the head of the State of Mississippi, during the above mentioned period - - -	$103,276 58	
Received on account of the Literary Fund, during the same period - -	1,890 65½	
Received on account of the Three Per Cent Fund during the same period -	20,780 68	
Received on account of the State House Department, during the same period - - - - - - - - - - -	9,642 22	
Equal to - - - - - -		135,590 13½
Which amount being added to the aforesaid balance, remaining on the first day of March 1834, is equal to the sum of - - - - -		$139,428 62½
The disbursements, under the various heads of Public expenditure from the first		

STATEMENT—Continued.

day of March, one thousand eight hundred and thirty-four—the commencement of the Fiscal year—up till this day, are as follows, to wit:		
Disbursed on account of the Legislative Department, during the period last aforesaid	1,809 00	
Disbursed on account of the Executive Department, during the same period	5,175 00	
Disbursed on account of the Judiciary Department, during the same period	35,151 85	
Disbursed on account of Appropriations, during the same period	3,977 73½	
Disbursed on account of the Census Department, during the same period	71 00	
Disbursed on account of the Literary Fund, during the same period	3,351 00	
Disbursed on account of the Militia Department, during the same period	401 00	
Disbursed on account of the Three Per Cent Fund, during the same period	20,780 08	
Disbursed on account of the Seminary Lands, during the same period	163 68	
Disbursed on account of the Contingent Fund of the Executive Department during the same period	3,000 00	
Disbursed on account of Elections, during the same period	45 00	
Disbursed on account of the State of Mississippi, during the same period	4,781 26	
Disbursed on account of the Contingent Fund, for incidental expenses of the State House, during the same period	379 25	
Disbursed on account of the State House Department, during the same period	6,627 75	
Which makes the sum of		$94,663 99½
And which being deducted from the total receipts, shews a balance remaining in the Treasury on this day of		$14,746 63

It will be seen from the foregoing Report, that the Treasury though not full to overflowing, is nevertheless in a condition to meet all the current and contingent expenditures of the State Government; and from estimates based upon reasonable calculation, and notwithstanding the additional expenses of the present session of the Legislature, will, it is believed, exhibit a much larger balance, at the end of the Fiscal year, than has been shown for several preceding years.

The undersigned in submitting this, his last Report, to the present Legislature, from a large portion of whose members, *individually* as well as *collectively* he has received so many tokens and manifestations of private regard and public confidence, cannot but claim the indulgence of the two Houses, for a few moments, in extending this communication a little beyond the limits usually assigned to a mere Fiscal Report.

Having formed the conclusion, and become fixed in the determination, the undersigned deems it a duty, he owes to himself, to the legislature, and more especially to the public interest, that he should make this early and public annunciation of his purpose not to be again, a candidate for the office which he now holds, after the present tenure thereof shall have expired. The performance of this duty to the public becomes the more imperative, from the consideration that his present term of office will expire in a few months; and that therefore ample time should be afforded to arrive at a full, clear and explicit expression of the public will in the selection of a successor.

In withdrawing from the public service, the undersigned has been influenced by no illaudable motive; but purely from that love of retirement, and domestic ease, and tranquillity so essentially consequent, upon declining years; and from the unalloyed enjoyment of which, from the cares incident to public life, he has been so long precluded.—Twenty-two years mark the length of his residence in Mississippi—*Twenty years* of which have, in some station or other been devoted to public life! How far the complex duties of those various stations have been performed with fidelity and in good faith, has been abundantly attested by the kind indulgence, and *continued guarantee* of a generous people! And it is a pleasing retrospection to the undersigned, that during this long period of various public trusts and duties, he has never failed to experience, not only the all cheering smiles of an unoffending conscience—but that which stands next in the heart of every patriot—the spontanious plaudits of an enlightened community!

It is a source of deep gratification to the undersigned,

that he is able to close his public labors at a period so propitious to the future growth, prosperity and happiness of our new, but expanding State—at a time when her long-hidden resources, are, under the fostering hand of wise and salutary legistation, just beginning to develope themselves, and which if properly carried out must soon place her upon the most solid basis of commercial wealth, and political supremacy!! Abounding in natural resources,—her soil exuberantly productive, her climate temperate and salubrious,—her Government Democratic and Republican,—her citizens interwoven with each other by identity of interest and common enterprize—our State must ere long present to her surrounding sister states an example of felicitous prosperity worthy their sanction and their imitation:—Nor is this the mere idle dream of political fanaticism; but the pure and substantial result of measures now actually developing themselves through the medium of a wise and beneficent system of legislation already begun and in successful progress. The beneficial results to both agricultural and commercial communities to be derived from a liberal system of *Internal Improvements*, is readily admitted by all, and solemnly sanctioned by the best political experience of the age. Nor need we fear that their great and inestimable advantages will be overlooked by the enlightened *future* statesmen of Mississippi.

Upon the particular subject of revenue and finance the undersigned will submit but few remarks. The report of the Auditor of Public Accounts, will, I presume, go more into detail upon that interesting subject, and I have no doubt that from the correct and lucid views which he entertains upon the various branches, of the financial department, he will be able to place the whole subject matter, in all its lights, ramifications and bearings in such a manner as to confer much credit upon himself as an officer, and render entire satisfaction to the enlightened representatives of the people. Suffice it then for the undersigned barely to suggest in this place, as the settled convictions of his own mind, that by extending legislative patronage, not to any particular, local or sectional interest, but to the increasing and enterprising industry of the great body of the people throughout the state, thereby stimulating them to put in requisition the whole of their moral and physical energies, the time will ere long arrive when the onerous system of direct taxes, may with perfect safety, be stricken from the pages of our statute book.

But the peculiar nature of the document he is writing, will not allow the undersigned to proceed farther; and he

has only again, in conclusion, to tender to you, Gentlemen, and through you to the people of his long-adopted state, for whom he feels and cherishes the strongest social and filial affection; for the many unmerited favors, they have conferred upon him, his *unreserved* thanks and ceaseless gratitude; and trusts that in the dispensation of the common and reciprocal blessings of a *free government*, he, as a *private citizen* will with them, long live to participate! And may the GREAT FATHER OF DESTINIES vouchsafe to us all, its unbroken perpetuity!

All of which, is most respectfully submitted,

JAMES PHILLIPS, *State Treasurer.*

Mr. Hargis moved to print 300 copies of the State Treasurer's Report, which motion was negatived.

The following Message was received from his Excellency the Governor, by Upton Miller Esq., his Private Secretary—which was read and is as follows.

Fellow citizens of the Senate,
and House of Representatives:

SINCE the adjournment of the Legislature, circumstances connected with the various interests of the State have transpired, rendering it necessary, in my judgment, to convene the Legislature at an earlier period than that designated by law for its regular session. In the exercise of this constitutional duty, I have acted with due regard to the best interests of the State; nor have I been insensible to the many inconveniencies, that must result to you individually, from this unexpected call to your official duties.—A confident reliance, however, on your patriotism and zeal for the public welfare, assures me that your private concerns, will be made to yield to public interest.

Entertaining no doubt of the constitutional right of each county to at least one representative, I have issued writs of election to the new counties respectively. Doubts having been suggested as to their right to representation in your present session, I submit the subject without comment to your consideration, resting as I do entirely satisfied, that if I have erred, you, as a co-ordinate branch of the Government, hold the corrective—each House having the power of judging of the qualifications and elections of its own members.

There is no feature in the science of Government, which guarantees more securely the civil and religious liberties of man, than the distribution of the powers of Government in-

to separate and distinct departments, by which, error, usurpation, and corruption itself, may be detected, so long as the people are faithful to themselves in the selection of proper agents. If it be true, that the character of a people is portrayed in their form of Government, how extremely exalting should be the reflection to an American, that he is blessed with the privilege of living under a Government of his own formation, and which secures to him civil and religious liberty. In contemplating the inestimable utility of our Federal Union, the mind is imperceptibly drawn to the contemplation of the virtue, patriotism and prophetic wisdom of the framers of the Constitution of the United States, in which instrument, the experience of each year inspires us with renewed confidence. Our Federal and State Governments present two prominent features on which the fabric securely rests, each of limited power and of mutual dependence; it is the duty of one to protect the other in the exercise of its constitutional functions, and guard with unceasing vigilance against every usurpation of power by one, that properly belongs to the other.

Under the auspices of the present Administration of the Federal Government, we have witnessed a disposition to keep within their proper spheres, the Federal and State authorities; and notwithstanding its salutary effects upon the rights of the States, and the perpetuity of the Union, for the interposition of his constitutional authority to prevent the recharter of the Bank of the United States, and to arrest as far as practicable the oppressions inflicted by that institution on the people for the purpose of extracting their unwilling consent to a recharter, the President stands charged, on the journals of the Senate, by a resolution passed the 28th day of March 1834, with having "assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."—This measure being adopted by a majority of the Senate, arranged and procured by a few master spirits of intrigue, inducing some no doubt to vote in derogation of the *known will* and best interests of their constituents.

It is a matter of just consideration, whether you will not instruct your Senators to vote for the resolution to be expunged from the journals of that body, as being unprecedented, unjust to the President, and offensive to a large portion of the American People.

On turning our attention to subjects more immediately connected with the internal concerns of the State, we find much cause to felicitate each other, and to render to the Supreme Ruler of events our most devoted thanks for his boun-

ty. Whilst other countries have been scourged by the ravages of disease, we have been (during the past season) blessed with general good health; our fellow citizens are enjoying the reward of their labours in abundant crops, and an enhanced value of both their real and personal estates. As a State, Mississippi presents a new era in her history; the late acquisition of Territory from the Chickasaw Indians enlarging the field for industry and enterprize, presents to view the rich resources of a State that can only be kept in the rear of her sister States by ill-fated Legislation.

The solicitude that is felt for the speedy erection of a State-House, is evinced in the enactments of two successive Legislatures. The provisions of the act of 25th Dec. 1833 authorising the Executive to have seventy thousand dollars of the notes taken for lots sold in the Town of Jackson discounted, and to apply the same to the erection of the State-House, have not been carried into effect. In a correspondence with the Planters Bank, I was informed by the Directory, that those notes could not be discounted for want of Bank form; that under the provisions of the Charter, they could only discount such notes, as are negotiable and payable at some one of the Banks of the State; but that I could by giving my individual note, in accordance with the rules of the Bank, and depositing as collateral security, a corresponding amount of the notes of the State, effect a limited loan; and in order to enable the Architect to comply with his authorized contracts with individuals, for the building of the State-House, I found it necessary to resort to this method, and accordingly made my note at six months, for ten thousand dollars, which was discounted in the month of November last, and the proceeds placed in the Bank by my order, to the credit of the Treasurer of the State, to be drawn for, on proper occasions, as other public monies. The notes placed by me in Bank as security, being the property of the State, were endorsed in my official capacity; and although they were not discounted as the law contemplated, it is in effect the same. The receipt of the proper officer of the Bank for those notes, is deposited in the office of the Auditor of Public Accounts, where all vouchers in relation to the public buildings, on which it has been my duty to act, are to be found, except such as may be retained by the Architect, whose Books and vouchers will be opened to the inspection of your committee. The method adopted by me in procuring the means, in the recess of the Legislature for carrying on the public works was indispensable; and it must therefore be apparent, that Legislation is necessary to the further progress of this very important public improvement. To the

end that the necessary steps may be taken, I would respectfully suggest the expediency of a committee being instituted by your body for the purpose of examining into the state and progress of the building; and whilst I entertain the opinion that the sale of lots, will when realized, nearly, if not quite defray the expenses necessary to the completion of the object, without resort to a direct tax upon the people, I would reccommend as the most preferable method of procuring the necessary means, untill the proceeds of the lots in Jackson can be realized, the passage of a law authorizing loans, from time to time, as the same may be needed; by which, the interest will be saved to the State untill it is actually necessary that it shall be used.

The next subject to which your attention is respectfully invited, is the organization of new counties in the territory recently acquired of the Chickasaw Indians, and extending to that section of the state, now rapidly settling with the most respectable class of citizens, all the benefits and privileges that are enjoyed by other portions of the state. And I would with due respect, suggest, that by the provisions of the treaty, that tract of country is deprived of the benefits of the sixteenth section in each township, that has in all cases been reserved from sale for the benevolent purposes of education, since the ordinance of the Congress of the United States of 1785; and no instance occurs to my recollection where the townships have been denied this bounty. I would therefore suggest the propriety of your memorializing Congress for the reservation of the specific section, or an equivalent in other lands.

The militia of the state is in a deranged and disorganized condition. In the new counties organized at the last session of the legislature, no regiment was formed; and in consequence of a defect in the law regulating the election of officers, it has been found by the most vigilant officers, impracticable to organize many of the old regiments, for want of commissioned officers to superintend the elections.

It has, therefore, been impossible for the Adjutant General to procure such returns as will show the strength and condition of the militia, and we are consequently suffering the loss of arms, which are assigned by the general government to each state, in proportion to their respective strength.

I therefore recommend an amendment of the law in relation to the elections of military officers, so as to authorize freeholders in the regiments, respectively, to hold elections, whenever it shall occur, that, there is no commissioned officer to do so.

The election of a senator to the Congress of the United States for the ensuing term, which will commence on the fourth day of March next, being one of the considerations which induced me to convene the legislature, it becomes my duty to offer some reasons which caused me to attach so much importance to this measure. From the aspect of affairs, we have reason to believe that the new senate will be convened at some day prior to the regular meeting of Congress, at which session, business of vital importance to the state of Mississippi, will in all probability be acted upon; and if the opinion (entertained by some) be correct, that such a vacancy will not exist as will authorize the Executive to make the temporary appointment, then, and in that event, this state would be deprived of her representation in the senate, until the election in January next, before which time it is more than probable, that the very interesting question of the graduation in price of the public lands, and of extending more generally the right of preemption, so essential to the dearest interests of a large, and meritorious portion of our fellow citizens, will have been disposed of. I therefore felt it my duty to place it in your power to go into the election, believing, if no doubt existed as to the competency of the Executive to make the temporary appointment, that the regular mode of election would be more satisfactory to the people.

The essential advantages accruing from a well organized system of internal improvements, carried on under the fostering care of the state can scarcely be questioned by the most sceptical. Heretofore, Mississippi has been confined to a comparatively small portion of her territory, and the greater portion by far, of her exportable products, being raised on or adjacent to the bank of the Mississippi River, affording the means of cheap transportation to market, no inducement was offered to enterprizing capitalists for the investment of their capital in projects of improvements penetrating into the interior of the state; and the state acting on the sound principle, that governments, like individuals, should not invest capital in unprofitable projects, nothing material has been done in the improvement of our natural channels, or in the construction of artificial means of transportation. This state of things is radically changed. Whilst formerly the capital and products of the state have been confined to narrow limits, adjacent to the Mississippi river, we now have them spread in rich profusion throughout the state, offering to the enterprising capitalists every inducement for the investment of capital in the erection of those interior communications so essential to the best in-

terests of the people. The people of the state are in a spirit of internal improvement; and with a view to the furtherance of the object, I would suggest the expediency of passing a law authorizing the appointment of a civil engineer for the state, whose duty it shall be to make surveys and estimates of such routes as he may, from time to time, be directed by the legislature.

I recommend, also, the propriety of reserving to the state the privilege of taking a portion of the stock in such companies, as may be hereafter incorporated; and with a view to which, that you memoralize Congress for a grant of five hundred thousand acres of land to be appropriated to such objects of improvement as the state may think proper. Such a grant has been made to most if not all the new states; and why should Mississippi be deprived of it? It must be recollected that if this subject is not acted on by the next Congress, it will be too late for its benefits to be felt by this State as all the valuable lands will have been disposed of.

The Act of Congress of the 1st March 1817, authorising the western part of the Mississippi Territory to form a Constitution and State Government, reserves for the benefit of this State five per cent of the nett proceeds of lands lying within the said Territory—three-fifths of which to be applied by the legislature to objects of Internal Improvement within the State; and two-fifths to be appropriated by Congress to the establishment of a road, or roads, leading to the State. The three-fifths assigned to the controul of the Legislature, amounted on the 1st day of July 1833, to $61,800 6 2 1-4, and consequently the two-fifths that were to be expended by Congress on a road or roads, leading to the State, amounts at the same period to $41,206 41 1-2; and taking into consideration the extensive sales that have been made of the public lands within the State since the 1st July 1833, the two per cent fund will have amounted by this time to at least $100,000, no portion of which having been appropriated to the construction of any such road or roads as is contemplated by the Act. I would recommend the adoption of a memorial to Congress for a change of the manner of applying the same, so as to authorize the Legislature to expend it on such objects of improvement within the State, as it may think proper, or of adopting such measures, as will bring about the united action of this State and Alabama, so as to have this fund, which is due each of those States, appropriated to the construction of a railway from the Seat of Government of this State to the City of Mobile, or to some navigable point on the Tombeckby River above said city, which

will answer all the ends of the original act, and aid in the accomplishment of an improvement, in which both States are deeply interested.

On the withdrawal of the Branch of the United States Bank from this state, which must take place during the ensuing year, we shall be left with a Banking Capital of little more than six millions of dollars, and that, chiefly located at the City of Natchez.—The Branches of the Planters' Bank, located at different points in the state, with the limited capital assigned them, when taking into view the necessities of the country, is a mere mockery of banking principles.

The nett proceeds of the Crop of the State of Mississippi for the year 1833 is ascertained to have been $11,316,000; and the Crop of 1834 may be fairly estimated at $15,000,000. Can it, therefore, with this view of the subject, be thought by the most miserly economist in banking matters, that a state, whose amount of product in the single article of cotton, amounts to $15,000,000, with every probability of an increased ratio of twenty-five per cent per annum for many years to come, can get on with a banking capital of $6,000,000. Being fully convinced of the necessity of enlarging the banking capital of the State, I recommend with due deference, the establishment of a Bank, on the principle of the Union or Citizens' Bank of Louisiana, the stock of which to be taken by planters, on the mortgage of their lands; by which means it is believed that a loan may be effected at a low rate of interest, terminating with the charter. A Bank erected on this principle, and placed at the control of the Planters of the country, will insure a sound currency, and at the same time, will enable the planters to increase their force and render more productive their lands. I am aware that the 9th section of the general provisions of the Constitution, interposes a barrier to the immediate pledge of the state for the payment of such loan as may be necessary to carry into operation this scheme; but it is for you, in your deliberations to determine, whether such guards may not be thrown around the institution, as will render perfectly safe the lender of the capital. Mississippi being the central cotton growing region, where lands are productive, and of permanent value, it cannot be questioned by capitalists at home or abroad, that landed security is the best that can be given. I therefore entertain no doubt, that the Bank may be carried into successful operation, if it should meet your views to charter such an institution.

Impressed as I am with the opinion, that the new counties which have been laid off since the regular census, was taken in 1833, as well as those which may be laid off at your

present session, form an exception to that clause of the Constitution, which requires, that an enumeration of all the free white inhabitants of this State shall be taken, at periods of not less than four nor more than six years, until the year 1845, I recommend the passage of a law for taking the census of those counties with a view to the apportionment of their senatorial representation. The Constitution requires, that the enumeration of all the free white inhabitants of this State shall be taken at fixed periods, but it does not exclude the Legislature from the right of causing the census to be taken in counties that was not taken at the stated periods for making such general enumeration. Were it so construed this large and rapidly populating portion of our State would be deprived of their senatorial representation until the year 1840, an act of injustice that never could have been designed by the framers of the constitution. If precedents are entitled to any consideration, we have one in point. Prior to running the line between this State and Alabama, it was believed, that all that tract of country lying east of the Tombeckby River, afterwards forming Monroe county (now Lowndes and Monroe) belonged to the State of Alabama, and the census was not taken at the time of making the general enumeration, but which on the running of the line, being found to belong to Mississippi, a special law was passed for taking the census, and that people allowed their representation in the Senate and House of Representatives.

A large remnant of the Choctaw Indians remaining within the Territory recently ceded by that tribe to the United States, have evinced a strong dis-inclination to emigrate west. Humanity requires that something should be done for the melioration of their condition, and to prevent them from becoming a nuisance to the country, as many of them inevitably will if they are permitted to roam at large and rely upon the chase for their subsistence. Many of those people are intelligent, honest and industrious, and promise to do well, but there are others, who are ignorant and indolent, and have failed to secure for themselves lands to which they would have been entitled under the late treaty, and are now destitute and wretched. I therefore recommend you to memorialise Congress to make a further appropriation for the purpose of removing such of them as may be induced to go to their new home.

We receive from the most of the States copies of their laws, and it is to be expected that we should reciprocate such civilities; it is therefore necessary to a free transportation of them by mail that you should pass a resolution,

authorizing them to be sent to the Executives of the several States.

The thirty-six sections of land granted to this State by the United States for a seminary of learning, have been sold for the sum of $277,282 53, a sum quite sufficient to justify the State to go into the establishment of a University, and with a view to its location I would recommend the appointment of commissioners from the four extremes of the State, and one from the centre, whose duty it shall be to select the spot for its location, having due regard to the healthfulness of its situation. This, with such other measures, for the dissemination of education throughout the State, as you in your wisdom may adopt, will meet my most cordial approbation.

The frequent scenes of bloodshed which have occurred in the face of society, against law both human and divine, induces me to call your attention to the 2nd section of the 7th article of the constitution, which confers on the Legislature ample power to pass such laws as may be deemed necessary to suppress the evil practice of duelling.

A penitentiary system having been agitated by previous Legislatures, it may not be amiss to call your attention to the consideration of the subject prior to the revision of the Statutes of the State, as it would materially change the features of the criminal code.

The last information that I am in possession of from the revisor of the Laws, is, that they will not be ready to present to the Legislature, prior to the next regular session.

Gentlemen: having thus passed briefly over the subjects presented for your consideration, I tender the assurances of my hearty co-operation in all measures calculated to promote the prosperity of our common country.

H. G. RUNNELLS.

JACKSON, (Mi.) January 21, 1835.

On motion of Mr. Hargis the Secretary of the Senate was ordered to cause to be printed 600 copies of the Governor's Message for the use of the Senate.

On motion of Mr. Tracey the Communication received this day from John H. Mallory Auditor of Public Accounts was read, and on motion of Mr. Land the Secretary of the Senate was ordered to cause to be printed for the use of the Senate 200 copies of the Auditor's Report—said Report is as follows, to-wit:

REPORT:

AUDITOR'S OFFICE,
JACKSON, (MISS.) *January* 19, 1835.

To the Honorable
The Legislature of the State of Mississippi:

GENTLEMEN: In pursuance of an act to define the duties of the Auditor of Public Accounts, and to establish his salary I have the honor to submit to your honorable body, a detailed report of the receipts and expenditures of the public monies of the State, from the 20th day of November, 1833, to the 28th day of February, 1834, inclusive; the end of the fiscal year exhibiting a balance in the Treasury on that day, amounting to one thousand three hundred and fifty-three dollars and two cents; also the receipts and expenditures of the monies of the State, from the first day of March, 1834, the commencement of the fiscal year, to the 19th day of January, 1835, inclusive; exhibiting a balance remaining in the Treasury on that day, of sixty thousand one hundred and twenty-one dollars and forty-one cents.

Amount remaining in the Treasury on the 19th day of November 1833 and placed to the credit of the State on new account, - - -	$20,454 04
Amount received on account of the State tax from the 20th day of November 1833, to the 28th day of February 1834 inclusive, - -	5,759 84¼
Amount received on account of slaves sold as merchandize during the same period, - -	58 00
Amount received on account of fines and forfeitures accruing to the Literary Fund during the same period, - - - - - - - - - -	157 40
Amount received on account of Hawkers and Pedlars during the same period, - - - -	100 00
Amount received on account of the Seminary lands during the same period, - - - - -	481 44¾
Amount received on account of the State of Mississippi during the same period, - - -	443 28¾
Amount received on account of the contingent fund of the Executive Department for the year 1833, - - - - - - - - - - -	438 20
Amount received on account of Joel Scilman, tax collector of Jefferson county, - - -	4,550 00
Amount received on account of J. W. Pitman, late assessor and collector of Marion county,	69 27½
	$32,511 49¼

Disbursements under the several heads of expenditures during the same period.

Disbursed on account of the Judiciary Department from the 20th day of November 1833, to the 28th of February 1834, - - - - -	6,951 85
Disbursed on account of the Legislative Department during the same period, - - - - - -	11,078 31
Disbursed on account of the Executive Department during the same period, - - - - -	3,011 10½
Disbursed on account of appropriations during the same period, - - - - - - - - - - -	6,502 33½
Disbursed on account of elections during the same period, - - - - - - - - - - -	10 00
Disbursed on account of the State of Mississippi during the same period, - - - - - - -	607 08
Disbursed on account of the Contingent Fund of the Executive Department for the year 1833 during the same period, - - - - - - - -	88 00
Disbursed on account of the Contingent Fund for Incidental expenses during the same period,	727 25
Disbursed on account of the Seminary lands during the same period, - - - - - - - -	229 50
Disbursed on account of the Contingent Fund of the Executive Department for the year 1834 during the same period, - - - - - -	2,000 00
Disbursed on account of the Census Department during the same period, - - - - - - - - -	453 04
	$31,158 47½

Which sum being deducted from the amount of the receipts, shews a balance to have been in the Treasury on the 28th February 1834, of one thousand three hundred and fifty-three dollars and two cents, which amount was placed to the credit of the State on the first day of March 1834, the commencement of the fiscal year,	1353 02
Amount received on account of Slaves sold as merchandize from the 1st day of March 1834 till the 19th day of January 1835, - - -	8,315 41½
Amount received on account of Hawkers and Pedlars during the same period, - - - -	738 33
Amount received on account of Merchandize sold at Auction during the same period, -	29 78
Amount received from Robert Bradley late tax collector of Adams county during the same period, - - - - - - - - - - - -	2,150 00.

Amount received from the Bank of the State of Mississippi on account of the three hundred shares held by the State in said Bank, together with the dividends declared on the same,	30,600	00
Amount received on account of the sale of Town lots during the same period, - - -	1,509	73½
Amount received on account of Billiard tables during the same period, - - - - - - -	1,000	00
Amount received on account of S. P. Shope late tax collector of Pike county during the same period, - - - - - - - - - - -	1,350	00
Amount received on account of Joel Selman tax collector of Jefferson county during the same period, - - - - - - - - - - - - - - -	7,410	67
Amount received on account of the State House during the same period, - - - - - - -	9,642	22
Amount received on account of the Literary Fund during the same period, - - - - - -	1,890	65½
Amount received on account of the three per cent Fund during the same period, - - -	20,780	68
Amount received on account of the State Tax during the same period, - - - - - - -	53,916	40
	$140,686	90½

Disbursements under the several heads of expenditures during the same period.

Disbursed on account of the Judiciary Department during the same period, - - - - - -	33,745	60
Disbursed on account of the Legislative Department during the same period, - - - - - -	1,862	00
Disbursed on account of the Seminary lands during the same period, - - - - - - - -	153	58
Disbursed on account of the Contingent Fund for incidental expenses during the same period, - - - - - - - - - - - - - - - -	372	25
Disbursed on account of the Executive Department during the same period, - - - - - -	5,475	00
Disbursed on account of the State of Mississippi during the same period, - - - - - - ,	4,831	26
Disbursed on account of the Census Department during the same period, - - - - - - - -	71	20
Disbursed on account of the Literary Fund, during the same period, - - - - - - - -	3,254	69
Disbursed on account of appropriations during the same period, - - - - - - - - - -	2,990	48½
Disbursed on account of the Militia Department		

ment during the same period, - - - - -	501 00
Disbursed on account of the three per cent Fund during the same period, - - - - - -	20,780 68
Disbursed on account of the State House during the same period, - - - - - - - - -	6,527 75
	$80,565 49¾

Which sum being deducted from the amount of receipts, shows a balance remaining in the Treasury on this day, of sixty thousand one hundred and twenty-one dollars and forty-one cents, *varying* five thousand two hundred and forty-six dollars and seventy-eight cents from the balance as exhibited by the Treasurer in his Report of this date, which is accounted for as follows. To the balance as exhibited by the Auditor in his Report of this date, add the sum of two thousand four hundred and eighty-five dollars and forty-seven cents, it being the difference of the balances as exhibited by the Treasurer and Auditor on the 28th day of February 1834, and also the sum of fifty dollars, the amount of pay warrant No. 169, drawn in favor of John Rawls dated, 28th August 1834, which has been charged in the disbursements of the Auditor, but which has not been paid by the Treasurer, from which amount deduct the sum of four thousand and thirty eight dollars and fifty cents, it being the amount of pay warrants, No. 250, in favor of James Y. McNabb, for eight dollars, dated 25th Dec., 1833. No. 308 in favor of J. C. Isbell, for fifty seven dollars and wenty-five cents, dated 31st. Dec. 1833. No. 330 in favor of Wm. L. Sharkey for five hundred dollars, dated 20th Jan. 1834. No. 310 in favour of J.A. McRaven, for two hundred dollars, dated 31st, December 1833. No. 314, in favor of C. P. Smith, for eight hundred and seventy-two dollars and twenty cents, dated 10th January 1834. No 325 in favor of Wm. Vannerson for twelve dollars, dated 18th January 1834. No. 328 in favor of J. J. H. Morris, for one hundred and eleven dollars and twenty-nine cents, dated 18th January 1834. No. 329 in favor of Jesse Smith, for six dollars and ninety-six cents, dated 20th January 1834. No. 333 in favor of H. G. Runnels, Governor of the State, for two thousand dollars, dated 30th January 1834. No. 334 in favor of William W. Calmes, Jailor of Adams county, for one hundred and ninety-two dollars and eighty cents, dated 30th January 1834. No. 336 in favor of James McRaven for thirty dollars, dated February, 5th, 1834. No. 337 in favor of James McRaven, for six dollars, dated 5th February 1834; and No. 115 in favour of F. Davis, for forty-two dollars;

which several pay warrants were issued prior to the 28th February 1834; but were not paid at the Treasury untill after that date; also the sum of three thousand seven hundred and forty-three dollars and seventy-five cents, the amount of receipt warrant, No. 40, drawn in favor of Hudson M. Pitman, on the 6th instant, and included in the receipts of the Auditor's Report of this date; but has not as yet been paid into the Treasury, and the balances as exhibited by the Auditor and Treasurer in their Reports of this date, agree *precisely*. I have allowed to the tax collectors, who have made a settlement of their accounts. the sum of fourteen hundred and seventy-two dollars and sixty-two cents, on account of insolvencies and excess of taxation; and I have allowed without warrant, on account of the Judiciary Department, four thousand four hundred and seventy-two dollars and seventy-four and a quarter cts.; on account of Elections fifty-four dollars; on account of the Census for the year 1833, four hundred and forty-seven dollars and forty-six cents; on account of Commissions, for Assessing the State Tax, eleven hundred and thirty-three dollars and ninety cents; on account of Commissions for collecting the State Tax, three thousand nine hundred and seventy-four dollars and two cents; on account of Commissions for collecing the Literary Fund, forty dollars and ninety cents; on account of the Militia Department, thirty-six dollars. The allowances without warrant being added to the several sums disbursed by warrant, and it shews that the actutal expenditures of the State under their several heads, from the 20th day of November 1833, to the 19th day of January 1835; were as follows.

Judiciary Department, - - - - - - - -	45,170 19¼
Legislative Department, - - - - - - -	12,940 31
Executive Department, - - - - - - -	8,486 10½
Appropriations, - - - - - - - - - -	9,492 82
Elections, - - - - - - - - - - - -	64 00
State of Mississippi, - - - - - - - -	5,438 34
Contingent Fund of the Executive Department, for the year 1833, - - - - - - -	88 00
Contingent Fund of the Executive Department, for the year 1834, - - - - - -	2,000 00
Contingent Fund for incidental expenses,	599 50
Census Department, - - - - - - - -	971 70
Commissions for collecting the State Tax,	3,974, 02
Commissions for assessing the State Tax, -	1,133 90
Seminary Lands, - - - - - - - - - -	383 08
Literary Fund, - - - - - - - - - -	3,254 69
Three per cent Fund, - - - - - - - -	20,780 68

State-House, - - - - - - - - - - - -	6,527 75
Militia Department, - - - - - - - - - -	537 00
Commissions for collecting the Literary Fund, - - - - - - - - - - - - - -	40 90
	$121,882 98

Statement A exhibits the balances due to and from the State. Statement B shows the amount of each subject of of taxation, and the amount of State tax due thereon, so far as the assessment returns have been received at the Auditors office: and statement C shows the number of shares of Bank Stock owned by the State, and the number subscribed for on account of the literary, three per cent, and seminary funds. Owing to the increased expenditures of the judiciary department, and the frequent failures of the State to succeed in her prosecutions, the expenditures of the State during the present year, considerably exceed those of the former; and though I am unable to represent the Treasury in a more prosperous condition, I can give an assurance of its perfect ability to meet every just demand against the State. By a reference to the several subjects of taxation, it will be seen that the State is rapidly increasing in population and wealth, the present ratio of taxation will, therefore, place the Treasury in an attitude to meet the ordinary expenses of the State, and need not, I think, be increased at the present Session of the Legislature. I would again recommend to the consideration of the Legislature, the acts in relation to billiard tables, and venders of slaves; the former should be so amended as to make it the duty of the assessor or collector, whenever a billiard table has been set up for play, forthwith to demand of, and receive from the person or persons setting up, or causing the same to be set up for play, the sum of five hundred dollars. As the law now is, it is made the duty of the assessor to assess them as other property, and the individuals sitting them up, being frequently *transient* and *irresponsible* persons, take their tables down and leave the State, before the time of making collection of taxes. I have been unable to collect the taxes due from venders of slaves, in consequence of several of the judges of the circuit courts, having declared the act in relation to the sale of slaves as merchandize unconstitutional. As a considerable portion of the revenue of the State has been derived from that source of taxation, I would respectfully present the subject to the consideration of the Legislature. In pursuance of the act to establish a Planters' Bank in the State of Mississippi, I examined the Planters' Bank, at

Natchez, on the 22d, 23d and 24th of last month, and am much gratified to state to the Legislature that, the result of that examination afforded the most conclusive evidence that the bank is in a prosperous condition. The bank declared a dividend on the fifth instant, of ten per cent. on the whole of its stock, for the year 1834, leaving a residuary dividend of one hundred and eighty thousand one hundred thirty seven dollars and ninety-eight cents, which stands to the credit of profit and loss. The sum of eighty thousand dollars, was placed during the last year, to the credit of the sinking fund. After the payment of the interest due on the State bonds, the sinking fund, on the fifth instant, amounted to two hundred eighty-five thousand four hundred and thirty-one dollars and sixty-three cents. This fund will increase annually with a rapidity which will far exceed the anticipations of its most sanguine friends. Hereunto appended and marked D., is a general balance of the Planters' Bank, which I procured from the cashier, and which is submitted for the inspection of the Legislature. The bank is engaged principally in the renewal of debts due to the institution, but in a short time will commence loaning to the full extent of its ability. I am informed by the cashier, that arrangements have been made with the banks of Philadelphia, and New York, for the payment of such bills and checks as may be drawn upon those banks by the Planters' Bank. I have received from the bank of the State of Mississippi, payment for the three hundred shares of stock held by the State in said bank, and the two hundred and ninety-one shares belonging to the literary fund. The amount of the shares belonging to the State has been placed in the Treasury of the State: and the amount of those belonging to the literary fund, has been invested in stock in the Planters' Bank, in pursuance of an act passed at the last Session of the Legislature. There are now six hundred and seventeen shares subscribed and paid for, on account of the literary fund in the Planters' Bank. I am advised by the cashier of the Planters' Bank, that he does not consider that the act for the distribution of the literary fund among the several counties of this State, and for other purposes, authorizes him to designate to the several counties in the State, the shares to which that act entitles them, or to pay to those counties any portion of the dividends accruing from the stock of said fund. The several counties to which shares have been assigned by the act in relation to the literary fund, have frequently made application for their dividends, but have been unable to receive them. I would respectively recommend to the Legislature, to make

it the duty of some person to transfer to the several counties the number of shares to which they are entitled, or to receive and pay over to them their dividends on said stock, as the same may be available from time to time. I have deposited in the Planters' Bank, the notes for the first instalment of the amount due for the sale of the seminary lands, of which twenty-one thousand eight hundred dollars has been collected, and vested in stock of said bank.

S. M. Puckett, Esq., Commissioner, for the sale of town lots, deposited in this office, notes taken at the several sales of lots made by him, amounting to seventy-five thousand fifty-eight dollars. Hereunto appended, and marked E., is the report made by him in relation to the manner in which he has performed his duties, which is presented for the consideration of the Legislature. I am informed by several of the purchasers of the seminary lands, that the quantity of acres sold, which was on an estimate of six hundred and forty acres to the section, does not agree, in many instances, with the actual number of acres in the several sections and quarter sections. Some are said to contain more, and others less than the quantity sold. I would respectfully invite the attention of the Legisjature to the subject, and suggest the necessity of the passage of an act on the subject.

All which, is respectfully submitted,

JOHN H. MALLORY,

Auditor of Public Accounts.

STATEMENT A.

A List of Balances due to and from the State.

DUE TO THE STATE.	DOLLS. CTS.	REMARKS.
From Thomas Hubert, deceased,	15 00	
" Alexander Frazier,	92 86¼	
" Jordan Gibson, deceased,	72 01½	
" John Love, deceased,	131 22½	
" William H. Wood,	918 71½	
" Jefferson College,	10,000 00	
" William Robertson,	160 31½	Suit ordered.
" Mississippi College,	5,000 00	
" John Hankinson and securities,	3,361 79	Suit ordered.
" Robert Bradley,	739 66¼	Suit ordered.
" Allen B. Bridgers,	1,892 56	Suit ordered.
" James Reid,	2,782 74½	Suit ordered.
" T. B. J. Hadley, late Auditor of Public Accounts,	3,152 51	Suit ordered.
" Robert Steen,	327 86¼	Suit ordered.
	$29,007 27½	
Due by the State to Joseph R. Plummer,	$ 60 03	

STATEMENT B.

Names of the several counties in the State.	Value of land.	Value of town lots.	Amount of sales of merchandize.	Amount of money loaned at interest.	No. of billiard tables.
Adams,	$788,16-	$1044,616	$1205,936	$286,484	
Amite,	249 606	17,272	59,813	33,177	
Attala,	-	-	-	-	
Carroll,	-	-	5,000	910	
Choctaw,	-	-	-	250	
Claiborne,	825,942	566,762	567,536	107,000	
Clarke,	-	-	500	1,100	
Copiah,	120,779	22,695	99,689	6,700	
Covington,	23,134	1,665	47,332	3,416	
Franklin,	-	-	-	-	
Green,	58,709	-	2,000	1,400	
Hancock,	-	-	-	-	
Hinds,	148,827	121,825	274,485	8,950	2
Holmes,	33,065	-	98,994	3,310	
Jackson,	-	-	-	-	
Jasper,	-	-	3,620	797	
Jefferson,	690,262	114,070	308,049	4,800	
Jones,	5,638	418	1,600	1,134	
Kemper,	-	-	-	218 82	
Lauderdale,	-	-	1,500	-	
Lawrence,	134,577	18,288	103,943	9,665	
Leake,	-	-	-	-	
Lowndes,	50,632	-	166,085	3,539	
Madison,	196,900	39,551	215,089	3,800	
Marion,	-	-	-	-	
Monroe,	55,292	13,261	95,974	2,930	
Neshobe,	-	-	-	-	
Noxubba,	-	-	4,715	-	
Oktibbeha,	-	-	3,938	451	
Perry,	26,549	915	828	5,626	
Pike,	101,992	15,960	73,758	30,855	
Rankin,	5,920	10,925	67,332	-	
Scott,	-	-	-	-	
Simpson,	28,085	4,300	37,849	2,588	
Smith,	-	-	250	477	
Tallahatchee,	-	-	650	400	
Warren,	547,686	489,060	629,548	33,042	
Washington,	-	-	18,308	-	
Wayne,	-	-	-	-	
Wilkinson,	698,639	180,555	211,342	12,662	
Winston,	-	-	-	-	
Yazoo,	38,178	57,295	170,207	500	
Yelobusha,	-	-	12,832	620	
	4,828,635	2,719,433	4,488,702	566,801 82	2

STATEMENT B.

Names of the several counties in the state.	Value of pleasure carriages.	Agricultural bank stock.	Ætna insurance office.	Protection insurance office.	Sales at auction.	Sales of slaves by citizens of the state.
Adams,	$18,235	$2000,000	$65,900	$192,846		
Amite,	4,721					
Attala,	-					
Carroll,	2,330					
Choctaw,	-					
Claiborne,	13,000					
Clarke,	-					
Copiah,	1,100					
Covington,	450					$6,850
Franklin,	-					
Green,	475					
Hancock,	-					
Hinds,	7,556					
Holmes,	1,955					
Jackson,	-					
Jasper,	75					
Jefferson,	6,280					
Jones,	-					
Kemper,	800					
Lauderdale,	-					
Lawrence,	1,600					
Leake,	-					
Lowndes,	4,620					
Madison,	10,060				$4,728	
Marion,	-					
Monroe,	717					
Neshobe,	-					
Noxubba,	3,540					
Oktibbeha,	385					
Perry,	105					
Pike,	1,065					
Rankin,	820					
Scott,	-					
Simpson,	-					
Smith,	-					
Tallahatchee,	1,750					
Warren,	7,870					
Washington,	-					
Wayne,	-					
Wilkinson,	20,360					
Winston,	-					
Yazoo,	3,600					
Yelobusha,	135					
	143,604	$2000,000	$65,900	192,846	4,728	6,850

STATEMENT B.

Names of the several counties in the states.	Sales of slaves by non-resident persons.	No. of white polls.	No. of free person of color.	No. of slaves.	Amount of state tax. Dollars.	Cents.
Adams,	*	634	14	8886	$ 20,250	72½
Amite,	-	523	2	3300	3,211	64
Attala,	-	-	-	-	-	
Carroll,	-	233	-	1055	784	82½
Choctaw,	-	78	-	80	79	87½
Claiborne,	-	767	16	5588	9,129	22½
Clarke,	-	102	-	107	109	12½
Copiah,	-	506	1	1563	1,805	28¼
Covington,	-	243	-	544	624	49¼
Franklin,	-	-	-	-	-	
Green,	-	144	-	303	403	39¾
Hancock,	-	-	-	-	-	
Hinds,	-	1259	7	5354	6,300	08½
Holmes,	-	516	-	2396	2,048	97¼
Jackson,	-	-	-	-	-	
Jasper,	-	121	1	139	147	04¼
Jefferson,	-	479	5	5621	6,563	50¼
Jones,	-	118	-	77	114	35
Kemper,	-	168	-	330	277	80
Lauderdale,	-	56	-	52	57	25
Lawrence,	$14327 50	415	-	1424	1,871	08¼
Leake,	-	-	-	-	-	
Lowndes,	-	581	1	1994	2,063	96½
Madison,	-	658	2	4904	4,603	98
Marion,	-	-	-	-	-	
Monroe,	-	541	5	998	1,267	43¾
Neshobe,	-	41	-	36	37	87½
Noxubba,	-	229	-	1089	813	68¾
Oktibbeha,	-	112	2	171	169	69¾
Perry,	-	183	-	446	468	22
Pike,	-	516	-	1368	1,632	14¼
Rankin,	12,000 00	366	1	681	904	61¾
Scott,	-	45	-	34	38	12½
Simpson,	-	337	1	592	681	43
Smith,	-	73	-	74	75	44¾
Tallahatchee,	-	233	1	746	576	75
Warren,	-	758	8	4797	7,633	41½
Washington,	-	170	1	2333	1,570	64½
Wayne,	-	-	-	-	-	
Wilkinson,	-	638	4	7098	7,669	09½
Winston,	-	-	-	-	-	
Yazoo,	-	439	-	2937	2,701	70
Yelabusha,	-	316	1	738	617	70½
	26,327 50	12598	73	67,855	88,304	61

STATEMENT C.

Name of the Bank in which shares are held.	No. of share owned by the State.	No. of shares owned by the Literary Fund.	No. of shares owned by the Three per cent. Fund.	No. of shares owned by the Seminary Fund.
Planters Bank of the State of Mississippi.	20,000	617	406	218

STATEMENT D.

General balance of the Planters' Bank of the State of Mississippi. Natchez, December 22d, 1834.

DR.

Bills receivable,			$3,176,414 85
Do. in suit,			96,210 21
Domestic Bills of Exchange,			2,914,491 77
Foreign Do.			85 11
Northern Do.			203,907 38
Suspended debt,			484,917 99
Bank expense,			254 06
Real estate,			98,633 76
State bonds,			16,93[illegible] 53
Notes of other banks on hand,			135,147 64
Amount due from other banks,			326,166 40
Gold and silver coin,			264,375 44
			$7,717,929 14

CR.

Capital stock,			$3,890,[illegible]12 14
Circulation,			1,760,37[illegible] 70
Post notes in circulation,			5,80[illegible] 00
Profit and loss,			372,238 58
Discounts,	$4,522 47		
Exchange,	8,672 96		
Damages,	1,018 42		
Interest,	511 50		14,725 35
Dividend,			6,639 10
Unclaimed dividend,			19,575 55
State Treasurer,			2[illegible],708 09
United States Treasurer,			843,733 26
Post Office Department,			276 00
Pension Agent, James C. Wilkins,			5,751 26
Gideon Fitz, Surveyor,			295 74
A. H. Bowman, U. S. Engineer,			10,000 00
Suspense Account,			8,900 00
Seminary Lands,			50 97
Three per cent. Fund,			45 89
Sinking Fund,			2,519 33
Individual Deposites,			522,643 70
Deposite Certificates,			35,582 85
Amount due to other Banks,			197,660 63
			$7,717,929 14

J. WILKINS, *President.*

S. SPRAGUE, *Cashier.*

STATEMENT E.

To JOHN H. MALLORY Esq.,
Auditor of Public Accounts.

SIR: In compliance with the requisitions of the Law, I have the honor herewith to hand you notes taken for the sale of the Lots in the Town of Jackson; which sales were held on the 27th November 1833, December 3d 1833, and January 25th 1834; amounting to $75,958. It is proper for me here to remark, that owing to some inaccuracies in the survey, that Five acre Lot No. 1 South, sold to Thomas H. Dickson; Five acre Lot No. 6 South, sold to Amos E. Johnson; Five acre Lot No. 7 South, sold to G. W. Corn; and Ten acre Lot No. 6 South, sold to John Shields; and Ten acre Lot No. 13 North, sold to John Shields; are found since the sales not to contain their proper area of acres. It is but justice to the purchasers that a deduction proportionate should be made: this will be a matter requiring Legislative interposition: and I am requested by the purchasers to lay the facts before you, to be laid before the next Legislature. Inadvertency has also occasioned two two-acre lots south, to be marked No. 10 South on the Map, one of which was sold to F. Callen for $130.5, the other to Anderson Robertson for $250; Mr. Callen's Lot lies within the limits of the original survey of said Town; Mr. Robertson's in the survey attached to the original plan. I have been careful so to distinguish them in my Record-book and in the certificates of purchase: the same care will be necessary in making out the final titles or patents: this duty by the present law devolves on the Secretary of State. I beg leave here respectfully to submit to the Legislature whether it would not with more propriety attach to the office of Commissioner who is bound to keep a record of all his official acts in a well bound book, in which the original titles should also be recorded, together with a Map of the Town. I do not know that it is proper for me to say any thing as to the propriety of bringing the unsold lots into market, yet it is evident that the improvement of the Town has been in some degree retarded by the very high prices put by speculators on lots offered at second hand sale; and as all obstructions to emigrations and improvement should be removed; it might be well enough to provide by law a mode of disposing of lots at private sale unless the Legislature shall think fit to dispose of the whole at Public Auction. Very Respectfully.

SAMUEL M. PUCKETT, *Com'r.*

On motion of Mr. Magee, the Secretary of the Senate was ordered to cause to be printed for the use of the Senate, 200 copies of the State Treasurer's Report.

And then the Senate adjourned to ten o'clock to-morrow morning.

THURSDAY, JANUARY 22d. 1835.

The Journal of the 21st inst. was read.

Mr. Quitman presented the Letter of Henry Vose.

"NATCHEZ, January 16th, 1835.

"JOHN A. QUITMAN,
Senator elect from Adams:

SIR—I desire through you to make the following representations to the Legislature of Mississippi.

1. At no small sacrifice of time and repose, I have made abundant collections of materials relative to the history and topography of the State, part of which will be embodied in a work about to be published, and entitled Voses Mississippi Gazetteer.

2. This work will contain more than 300 pages printed on fine paper and handsomely bound and lettered. It will contain a historic sketch of Mississippi from the earliest times, which will embrace more than 100 pages, which are already prepared for the press; also the new Constitution of the State with a complete index; also one thousand articles chiefly topographical, most of which are also already prepared for the press, and many other useful things, the whole alphabetically arranged.

3. Arrangements have been made to insure the publication of this work by the 1st of July next, and the commencement of the volume is now delayed chiefly to have it embrace the new counties to be formed in the Chickasaw Nation, and in the hope that the Delegates from the 16 new Counties will furnish further materials relative to their respective Counties.

I would now suggest the propriety of a liberal subscription to this work on the part of the State to be compensated in books at the same price per volume as to individuals and for the following reasons:

Several States have made donations of books to ours, all relating to their own interests, and we ought to make them some return, that they may be well informed, of our resour-

ces and brightening prospects, as well as to give them a *quid pro quo*. Besides, it will be generally advantageous to the Citizens of this State, and to its Civil Officers, particularly, to have a work containing almost every thing, relative to its best interests, to which they can refer.

Other reasons might be urged, but as they will, I think present themselves to those who reflect upon this subject, I shall forbear saying more.

Very Respectfully,

Your obedient Servant,

HENRY VOSE.

On motion of Mr. Quitman said Letter was referred to to a Select Committee—Messrs. Quitman, Magee and Land were appointed said Committee.

The following Message was received from the House of Representatives by Mr. Cornell their Clerk.

Mr. President: The Speaker of the House of Representatives has appointed Messrs. Leflore, Fulton and Thomas of Kemper, Members on the part of the House, of the Joint Committee, on Enrolled Bills, in place of Messrs. Allen and Beesly deceased, and Mr. Williamson resigned.

The House of Representatives have adopted a resolution in relation to the election of a senator to the congress of the United States, which is herewith presented, and am instructed to desire the concurrence of the senate therein.

The resolution named in the message last aforesaid, is in the words and figures following, to wit:

Resolved, (the Senate concurring) That on Saturday the 24th day of the present month, this House will meet the Senate at the hour of eleven o'clock A. M. in the Hall of the House of Representatives, for the purpose of electing a Senator of the United States for the term of Six years from and after the fourth of March next.

Adopted by the House of Representatives.

Signed, JAS. CORNELL, Cl'k.

January 21, 1835.

On motion of Mr. Land, said resolution was laid on the table.

The President of the Senate appointed Mr. Quitman on the joint committee on *claims*, and also on the committee, (of the Senate) on the *Judiciary*, in place of Fountain Winston, deceased.

The President also appointed Mr. Falconer on the joint committee on accounts, in the place of Thomas S. Sterling, resigned.

On motion of Mr. Henderson the resolutions, presented by him on yesterday, and which were laid on the table, were called up for consideration, and read.

Mr. Land moved to adopt said resolutions.

Mr. Hargis moved to strike out that part of the last resolution which requires the Senate to forbear from all legislative action until the committee proposed to be raised by the first resolution should report.

Mr. Henderson then addressed the Senate for an hour or more in support of the resolutions. Messrs. Magee and Hargis made some remarks on them. Mr. Quitman also addressed the Senate on them.

On the suggestion af Mr. Falconer the vote of the Senate was taken on each resolution separately.

On the adoption of the first resolution the yeas and nays were demanded, and were as follows, to wit:

YEAS.—Mr. President (Biscoe), Brown, Falconer, Haper, Henderson, Land, Magee, Quitman and Tracy.—9.

NAYS.—Messrs. Cocke, Davis and Hargis.—3.

So said first resolution was adopted. It is as follows:

1st. *Resolved*, That there be a committee of three members to be appointed by the President, to whom it shall be referred to inquire and make report, whether the two bodies of which this is one, and now assembled under the Executive convocation as the Legislature of the State of Mississippi, be or not the Legislature recognized and established by the Constitution and laws of the land.

The second resolution was then adopted, first having been,

On motion of Mr. Harper,

Amended, by striking out the words in the first and second lines, "*of the mode and manner by which said bodies have been convoked.*"

Said second resoulution is as follows:

2d. *Resolved*, That said committee inquire and make report of the mode and manner by which said bodies have been convoked; whether or not other and different persons than those which constituted the Legislature of the State of Mississippi, at its session on the sixteenth of November, one thousand eight hundred and thirty-three, and such others as have succeeded to fill vacancies, since happening in either House, as then constituted, are now assembled and composing any portion or all of either of said bodies.

The third resolution was adopted without amendment, and is as follows, to wit:

Resolved, That said committee inquire and make report whether or not the two bodies be so assembled and com-

posed of such members and description of persons as are appointed by the Constitution and laws of the land constituent members of the Legislature of the State of Mississippi, and whether each of the two bodies be so organized, that this House, in concert with the other body now assembled as the House of Representatives, can enter upon a constitutional discharge of their legislative duties.

The fourth resolution was then adopted without amendment. It is as follows:

4th. *Resolved*, That said committee carefully abstain from an inquiry into the qualifications and elections of any individual member of the body now assembled as the House of Representatives, but that their investigations be limited to the organization of the two bodies aforesaid in their aggregate character, as Houses respectively known to the Constitution as forming distinct branches of the Legislature; and that said committee report all the causes, if any there be, why the two Houses, thus assembled, are not the Senate and House of Representatives of the State of Mississippi.

The fifth and sixth resolutions the Senate *refused* to pass. they are as follows:

5th. *Resolved* That said committee, in the prosecution of their inquiries, have full power to send for persons and papers.

Resolved, That said committee report with all due diligence, and that until said report be made, this body forbear all legislative action.

And the Senate adjourned to three o'clock, P. M.

THREE O'CLOCK P. M.

The Senate convened pursuant to adjournment.

The following message was received from the House of Representatives by Mr. Cornell, their clerk:

MR. PRESIDENT:

The House of Representatives, have given leave to introduce a bill, to be entitled "an Act to provide for erecting bridges over certain water courses, from the proceeds of the Three Per Cent. Fund."

And then the Senate adjourned to ten o'clock to-morrow morning.

FRIDAY, JANUARY 23, 1835.

The Senate convened at ten o'clock, A. M. pursuant to adjournment.

A message was received from the House of Representatives by Mr. Cornell, their Clerk—which was read and is as follows, to wit;

"Mr President:

The House of Representatives have given leave for the introduction of a bill of the following title, to wit:

An Act to prevent obstructions of the navigation of the Yazoo and Little Rivers, or chula Lake.

Mr. Cocke called for the consideration of the resolution from the House of Representatives to go into an election of a senator to the congress of the United States on tomorrow at 11 o'clock, A. M,—said resolution having been laid on the table as the last action of the senate thereon.

This call was sustained

Mr Cocke then moved to concur in said resolution.

Mr Quitman moved to lay said resolution on th table.

Mr Land moved to postpone indefinitely said resolution.

Mr Magee moved to refer said resolution to a committee of the whole senate for Monday next.

Mr Quitman then withdrew his motion to lay said resolution on the table.

Some debate then ensued on said resolution, in which Messrs Land, Magee, Henderson, Quitman and Harris took part.

Mr Land then withdrew his motion to postpone indefinitely said resolution.

Mr Magee then modified his motion (to refer to a committee of the whole for *Monday* next,) to refer the same to such committee for half past ten o'clock tomorrow.

Said motion was sustained, and that reference made.

Mr Brown moved to reconsider the vote taken yesterday on the adoption of the resolutions presented by Mr Henderson on the 21st inst., and which were, after some amendments adopted on yesterday, which motion was affirmed—and said vote of adoption was reconsidered.

Mr Brown then moved to lay said resolutions on the table, but before any action on the motion last aforesaid,

Mr Quitman moved to *reconsider* the *vote* of *reconsideration* just taken (on said resolutions) and said motion last aforesaid was sustained.

Mr Magee gave notice that he will on tomorrow ask leaveof the senate, to introduce "A Bill, to be entitled An Act to amend the charter of the Commercial and Rail Road Bank of Vicksburg."

And then the Senate adjourned to 3 o'clock P. M. this day.

3 o'clock P. M.

The senate convened at three o'clock P. M., pursuant to adjournment.

A message was received from the House of Representatives by Mr Cornell their Clerk—said message is as follows, to wit:

MR PRESIDENT:

The House of Representatives have given leave for the introduction of bills of the following titles to wit:

"An Act to authorise the Trustees of Schools and School Lands in Township Eleven of Range Two East, to vest the funds of said Township in certain Bank stock."

"An Act for the relief of Robert B. Wood, and to vest in him title to certain lands therein named."

"An Act to reduce the compensation of members of the Board of County Police in certain counties therein named."

"An Act to remove the principal Bank of the Planters' Bank of the State of Mississippi from Natchez to Jackson."

"An Act to amend an act to authorize the Trustees of the School Lands within each Township in this State to lease the sixteenth sections within the same for ninety-nine years, and for other purposes."

Mr Quitman gave notice that he will on tomorrow, ask leave to introduce a bill to be entitled "An Act to incorporate the Mississippi and Pearl River Rail Road Company."

Mr Lard called for the consideration of the Governor's message, which had been laid on the table to be printed—the call was sustained, and the message was read in part, when the following message was received from the House of Representatives, by Mr Cornell, their clerk, to wit:

"MR PRESIDENT:

The House of Representatives have given leave to introduce bills of the following titles, to wit:

"An Act to establish the town of Holmesville, a district entitled to a Justice of the peace."

"An Act to authorize James J. Weiland, to sell and convey certain real estate therein named."

And "An Act to incorporate the town of Woodville."

The Reading of the Governor's message was then concluded—when references were made of it as follows, to wit:

1st. Motion of Mr Cooke, the following resolution was adopted, to wit:

Resolved, That so much of the Governor's message as relates to the organization of new counties in the Chickasaw country, be referred to a select Committee of three members:

And thereupon the President of the Senate appointed Messrs. Cocke, Land and Hargis.

2nd. On motion also of Mr. Cocke the following resolution was adopted:

Resolved, That so much of the Governor's message as relates to a Seminary of Learning, be referred to a select Committee of three members.

And thereupon the President of the Senate appointed Messrs. Cocke, Tracy and Falconer, said Committee.

3d. On motion of Mr. Tracy the following resolution was adopted:

Resolved, That so much of the Governor's message as relates to Banks and Banking privileges, be referred to a joint Committee, to be composed of three on the part of the Senate, with such number as may be appointed by the House of Representatives, with leave to report by bill or otherwise;

And thereupon the President of the Senate appointed Messrs. Tracy, Quitman and Davis the Committee on the part of the Senate.

4th. On motion of Mr. Quitman the following Resolution was adopted, to wit:

Resolved, That so much of the Governor's message as relates to the instruction of our Senators in Congress to vote for expunging from the Journals of the Senate of the United States, a Resolution passed by that body on the 28th day of March 1834, in relation to the authority and power of the President of the United States, be referred to a select Committee of three members;

And thereupon the President appointed Messrs Quitman, Brown and Harper, said Committee.

5th. On further motion of Mr. Quitman the following Resolution was adopted.

Resolved, That so much of the Governor's message as relates to a Penitentiary system be referred to a Committee of three members with leave to report by bill or otherwise.

And thereupon Messrs. Quitman, Magee, and Henderson were appointed said Committee, by the President.

6th. On motion of Mr. Brown the following joint Resolution was adopted, to wit:

Resolved, That a *Standing Committee* of three members on the part of the Senate, be appointed to act jointly with such Committee as may be appointed by the House of Representatives, on the subject of the Public Buildings; and that such portion of the Governor's message as alludes to this subject, be referred to said Committee.

And thereupon the President appointed Messrs. Brown,

Land, and Hargis, the Committee on the part of the Senate, on the Resolution last aforesaid.

And then the Senate adjourned to 10 o'clock, A. M. to-morrow.

SATURDAY, JANUARY 24, 1835.

The Senate convened at 10 o'clock, A. M. pursuant to adjournment.

Mr. Hargis presented the following notice:

Mr. PRESIDENT: I give notice that I will on Monday next, ask leave to introduce "A bill to be entitled "An act to alter the second and fourth Judicial District, and to fix the time of holding courts therein, and for other purposes."

The following message, was received from the House of Representatives by Mr. Cornell, their Clerk.

Mr. PRESIDENT: The House of Representatives have given leave to introduce bills of the following titles, to wit:

"An act to establish the town of Holmesville, a district entitled to a Justice of the Peace."

"An act to authorize James J. Worland to sell and convey certain real estate therein named."

"An act to dispense with the time prescribed by law for William B. Brown, of Copiah county, attaining the age of majority," and a Resolution in relation to the distribution of copies of the Revised Code among the new counties; they have also adopted a resolution in relation to the joint rules for the government of the two Houses, in which they desire the concurrence of the Senate.

The resolution named in the message aforesaid, was then considered by the Senate, and,

On motion of Mr. Hargis, concurred in:—said resolution is as follows:

Resolved, With the concurrence of the Senate, that the joint rules adopted at the last session, for the government of the two Houses, be adopted as rules for the present session.

Adopted by the House of Representatives, January 23d, 1835.

The above Resolution concurred in by the Senate, January 24th, 1835.

Mr. Land gave notice that, on Monday next, he will ask leave to introduce "a bill to be entitled "an Act to incorporate the Planters' Insurance Company of North Mississippi."

The following message was received from the House of Representatives, by Mr. Cornell, their Clerk.

Mr. PRESIDENT: The House of Representatives have given leave to introduce a bill to be entitled,

"An Act to establish the Union Bank of Mississippi."

The hour of half past 10 o'clock, A. M. having arrived—

The Senate, pursuant to the order of the day, resolved itself into a committee of the whole, Mr. Davis in the Chair, on the Resolution from the House of Representatives of the 21st of January, to go into the election of a Senator to the Congress of the United States, this day at eleven o'clock A. M., and after some time spent therein, the Committee rose, when Mr. Davis reported that the committee of the whole have had said Resolution under consideration, and had instructed him to report the same without amendment.

Mr. Davis moved to receive and agree to said report.

Mr. Hargis called for a division of the question. The call was sustained.

Mr. Davis then moved to receive said report. And said report was thereupon received.

Mr. Hargis then moved to lay said Report on the table. The motion last aforesaid was decided in the negative.

Said Report was, then, (after some remarks from several of the Senators, as to the effect of agreeing to said Report, and the position it would place the resolution in before the Senate)—on motion of Mr. Cocke, agreed to.

Mr. Cocke then moved that the Senate do concur with the House of Representatives in said resolution.

On the motion last aforesaid, Messrs. Land and Quitman addressed the Senate in opposition to concurrence with the House of Representatives.

Mr. Cocke in favor of the concurrence.

Mr. Hargis moved that the Senate adjourn to 3 P. M., and expressed a wish to be heard on the subject when the Senate should convene, again after the proposed adjournment.

Mr. Hargis's motion to adjourn was negatived.

Mr. Cocke moved to recommit said resolution to a committee of the whole, forthwith. Which motion was negatived.

Mr. Brown moved to lay said Resolution on the table. Which motion was also negatived.

Mr. Tracy moved that the Senate adjourn to 3 o'clock P. M; and the motion last aforesaid was likewise negatived.

Mr. Cocke moved to lay said resolution on the table; and the motion last aforesaid was also negatived.

M. Quitman then moved the indefinite postponement of

said resolution; but soon on the suggestion of Mr. Harper withdrew that motion.

Mr. Magee then moved to amend said resolution as follows, to wit: strike out the words "on Saturday, the twenty-fourth of the present month;" also, the words, "at the hour of eleven o'clock, A. M.

And the motion last aforesaid was affirmed; and the resolution so amended.

Mr. Quitman then moved to postpone indefinitely said resolution as amended.

Mr. Hargis again moved to adjourn to 3 o'clock, P. M. with the view to be heard on the subject in the afternoon, and called for the yeas and nays. The call was sustained; and were as follows:

YEAS—Mr. President (Briscoe) Messrs. Brown, Cocke, Davis, Falconer, Hargis, Henderson, Land, Magee, Quitman, and Tracy—11.

NAYS—Mr. Harper

So the Senate adjourned to 3 o'clock, P. M.

The Senate convened at 3 o'clock, P. M. pursuant to adjournment.

Mr. Hargis then addressed the Senate in favor of the adoption of the resolution. On motion of Mr. Cocke, before he had closed his remarks, the following message was received from the House of Representatives, by Mr. Cornell their clerk, to wit:

"MR. PRESIDENT: The House of Representatives have given leave to introduce bills of the following titles, to wit:

"An Act to legitimatize certain children therein named;"

"An Act to dispense with the time prescribed by law for Douglass H. Cooper, of Warren county, attaining the age of majority;"

"An Act authorizing the board of County Police of the county of Jefferson to audit the claims of John Baldwin and C. Murry of said county;"

"An Act to incorporate the town of Benton in the county of Yazoo;"

"An Act to amend "an Act to establish a Superior Court of Chancery and define the powers thereof;"

"An Act to incorporate the town of Coffeeville in the county of Yallabusha;"

"An Act to provide for the collection of the State and county Tax of the county of Hancock, for the years 1833 and 1834;"

"An Act to require the Treasurer of Covington county to pay certain moneys therein named to the Treasurer of Smith county;"

"An Act supplemental to an Act entitled 'an Act to reduce into one, the several acts and parts of acts, relating to dower, passed June 13, 1832;"

"An Act to alter and amend the second section of the seventh article of the Constitution, under the head or title, Slaves;"

"An Act, to amend the Seventh article of the Constitution under the head 'General Provisions,' by repealing the clause therein contained, entitled, 'mode of revising the Constitution;'"

"An Act to provide for the Seminary Fund;"

"An Act to amend an Act, entitled 'an Act to regulate Elections in this State,' approved March 2d, 1833;"

"An Act to prohibit the introduction of Slaves into this State, as merchandize or for sale;"

"An Act to charter the Citizens' Bank of the State of Mississippi;"

"An Act more effectually to provide for the prosecution upon bonds, obligations, bills of exchange, bills single, promisory notes and other writings. for the payment of money, and for other purposes;"

"An Act to distribute the three per cent fund to the counties therein named;"

"An Act to repeal the twenty-first section of an Act, entitled 'an Act to organize and establish Circuit Courts, and to define their powers and jurisdiction in law and equity,' approved March 2, 1833;"

"An Act further to amend an Act, entitled 'an Act to establish a Planters' Bank in the State of Mississippi,' approved February 10, 1830, and the Acts supplemental thereto;"

"An Act to amend and extend the provisions of the eighth section of the Act, entitled 'an Act further to amend an Act, entitled 'an Act to establish a Planters' Bank in the State of Mississippi,' approved February 5, 1833;"

"And a resolution in relation to the establishment of a Branch of the Agricultural Bank, at the town of Holmesville."

Mr. Hargis concluded his remarks in favor of the adoption of the resolution in relation to the election of a Senator to the Congress of the United States, and moved to amend said resolution, as follows: "Insert after the word 'concurring,' on Monday next, at half-past ten o'clock, A. M.:" and the Senate having considered the amendment last aforesaid, refused to adopt the same.

Said resolution was then put on its passage, and the yeas

and nays being demanded, were taken, and were as follows:

YEAS—Messrs. Brown, Cocke, and Hargis—3.

NAYS—Mr. President (Briscoe), Messrs. Davis, Falconer, Harper, Henderson, Land, Magee, Quitman, and Tracy—9.

So the Senate refused to pass said resolution as amended.

Mr. Magee, pursuant to notice of yesterday, asked and obtained leave to introduce a bill, to be entitled, 'an Act to amend the charter of the Commercial and Rail-Road Bank of Vicksburg."

Said bill was then read the first time, and on motion of Mr. Magee, the rule was dispensed with, and said bill was read forthwith a second time.

On further motion of Mr. Magee, said bill was ordered to be committed to a committee of the whole House' and made the order of the day for Monday next, the 26th inst.

Mr. Brown asked and obtained leave, to introduce a joint resolution, granting leave of absence to the Hon. James Scott. the judge of the second judicial district of this State, for a few months during the ensuing summer.

Said resolution was read the first time.

On motion of Mr. Hargis, the rule was dispensed with and said resolution read a second time forthwith.

On motion of Mr. Brown, said resolution was made the order of the day for a third reading on Monday next, the 26th instant.

Mr. Tracy gave notice, that on Monday next, he would ask leave to introduce a bill, to be entitled "an Act to change the time of the meeting of the Legislature of the State of Mississippi.

And then the Senate adjourned, to ten o'clock on Monday next.

MONDAY, JANUARY 26, 1835.

The Senate convened at 10 o'clock A. M. pursuant to adjournment.

The Journal of Saturday, the 24th of January inst. was read.

The following message, embodying the substance of a resolution, was received from the House of Representatives, by Mr. Cornell, their clerk, to wit:

Mr. PRESIDENT: I am commanded to inform the Senate, that the House of Representatives have adopted the following resolution, and to request them to concur therein.

WHEREAS, This House has heard with regret, of the death of General A. Albert Allen, late a representative from the

county of Hinds; also of the death of Mr. John Beesley, a representative from the county of Copiah; also of Mr. Thomas H. Watkins, from the county of Jefferson.

Resolved, That as a testimony of our respect for their memories, that each member of this House, wear crape on the left arm for the space of thirty days.

I do accordingly request the Senate to concur in said resolution.

The House of Representatives have given leave to introduce bills to be entitled "an Act to divide the south western district of Yalabusha county;" and

"An Act to prescribe the time, manner and place of holding elections for Senators to Congress;"

Also, a resolution in relation to the removal of the land-office, from Augusta to Franklin, in Jasper county.

On motion of Mr. Tracy, the Senate concurred in the resolution from the House of Representatives, in relation to the deaths of certain members of that House.

Mr. Davis, as chairman of the Committee on elections, made the following report, to wit:

The Committee on elections have instructed me to make the following report:

They have examined the credentials of John A. Quitman, and find him duly elected a Senator from the senatorial district, composed of the county of Adams.

They have examined the credentials of Thomas P. Falconer, and find him duly elected a Senator from the district composed of the counties of Jackson, Hancock, Green, Perry, Jones and Wayne.

Mr. Henderson, as chairman of the select Committee to whom had been referred on a former day, the resolutions presented by Mr. Henderson, made the following report:

REPORT

Of the Joint Committee, made by Mr. Henderson, as chairman. on the Resolutions presented by him to the Senate, on the 21st January, 1835.

The committee to whom was referred the following resolutions of the Senate, viz:

"*Resolved*, That there be a committee of three members to be appointed by the President, to whom it shall be referred to inquire and make report, whether the two bodies of which this is one and now assembled under the executive convocation as the legislature of the state of Mississippi, be or be not, the legislature recognized and established by the constitution and laws of the land.

"*Resolved*, That said committee inquire and make report; whether or not, other and different persons than those which constituted the legislature of the state of Mississippi at its session on

the 16th, of November 1833, and such others as have succeeded to fill vacancies since happening in either house as then constituted; are now assembled and composing any portion or all of either of said bodies.

"*Resolved*, That said committee inquire and make report; whether or not the two bodies be so assembled and composed of such members and description of persons, as are appointed by the Constitution, and laws of the land, constituent members of the Legislature of the State of Mississippi; and whether either of the two bodies be so organized, that this House in concert with the other body now assembled, as the House of Representatives, can enter upon a constitutional discharge of their legislative duties.

"*Resolved*, That said committee carefully abstain from an inquiry into the qualifications and election of any individual member of the body now assembled as the House of Representatives, but that their investigations be limited to the organization of the two bodies aforesaid in their aggregate character as *Houses* respectively known to the Constitution as forming distinct branches of the Legislature: And that said committee report all the causes, if any there be, why the two houses thus assembled, are not the Senate and House of Representatives of the State of Mississippi."

Having had the same under consideration, now beg leave to report:

That in entering upon the duties assigned them, they have found all the essential *facts* to which the several resolutions had pontied their attention; as circumscribed in their detail, and simple in their character. In substance, they are briefly these: That, since the last adjournment of the Legislature, on the 25th, of December, 1833, a wrti of election has issued by the Governor of date 4th of November 1834, authorizing and requiring an election in each of the new counties, (sixteen in number) to be holden on the second Monday and day following in December (*then*) next, to fill a *vacancy* reported as existing in each of said counties for one Representative. The counties, to which this writ of election was respectively addressed were created by the Legislature on the 23d day of Dec. 1833; and by the apportionment-law of 25th of Dec. 1833, there was assigned to each county respectively, one representative, *in the next biennial session of the Legislature.* A *special session* of that Legislature eloted in November, 1833, and continuing till the next ensuing November 1835, has been called; and members from nearly all of those new counties have been returned under the elections so by the Governor's writ directed as aforesaid, have presented themselves to, and as a portion of, the body assembled as the House of Representatives; have therein been qualified as regular members, and taken their seats accordingly.

That such an election was ordered, your committee beg leave to refer to the Governor's message now before the Senate, wherein the fact is communicated and the subject as to the right of those new counties to representation in the *present session*, submitted to the consideration of the *Senate*, as well as the House of Representatives.

The *time* when said writ of election issued; the suggestions it contained as authorizing its emanation; to what counties it was directed; the time appointed for the elections to be holden; and the returns from twelve of those counties showing the members elect; are made apparent by a certificate from the department of State herewith exhibited, marked (A).

That the members thus elected and returned, together with some other members from the new counties, whose election returns are not certified from the State department, have been qualified and admitted to membership in that body now assembled as the House of Representatives; is also made apparent, by the Journals of that body, as published by the State printer, and herewith exhibited, marked, (B).

The facts being as above presented the more difficult and important duty remains to be considered in so applying the principles of the Constitution and the laws, that it may be correctly ascertained, whether the two bodies thus assembled, are the respective branches of the Legislature; *or* whether there be such defect and irregularity in the organization of either, as that the body to which your committee belong, are legally restrained from a proper discharge of legislative duties.

Your committee have found in their investigations no cause of exception to the constitution and organization of *this* House as "*the Senate*," a branch of the State Legislature. In reference to the other body assembled as the House of Representatives, the following is their report:

By section fifth of the schedule in the Constitution as revised on the 26th of October, 1832, it is provided, That the members of the Legislature *first*, thereafter to assemble, should be elected on the first Monday and day following in Dec. 1832, but to continue in office *only* till the next (and first) *general election*. The general election, so referred to, is established by the Constitution, Art. 3, Sec. 9, as follows:

"The first election for *Senators and Representatives* shall *be general* throughout the State, and shall be held on the first Monday and day following in *November*, 1833; and thereafter there shall be biennial elections for Senators to fill the places of those whose term of service may have expired."

Section sixth of the same article provides, "That Representatives shall be chosen *every two years* on the first Monday and day following in November."

Section fifth, same article: "The members of the House of Representatives shall be chosen by the qualified electors, and shall serve for the term of *two years from the day of the commencement of the general election*, and no longer."

In pursuance of these provisions the members of the Legislature who assembled in session on the sixteenth day of Nov. 1833, were elected; the period of whose service takes date from the election in Nov. 1833, and will continue till the next general election in Nov. 1835.

By section thirtieth, article third, it is provided, that "The first

session (of the Legislature) shall commence on the third Monday in November, 1833, and in every two years thereafter at such time as may be prescribed by law."

The following *postulata* are derived from the several sections of the Constitution above quoted:

First. That our Legislature is of two years' continuance.

Second. The general elections are fixed at every two years.

Third. That they both date their commencement from November, 1833.

Fourth. That Representatives shall be chosen every two years.

Fifth. That the tenure of their office is for two years.

Sixth. That (except to fill vacancies happening in the House) they must be elected on the first Monday and day following in November of every two years counting from November, 1833, in order to be constitutional representatives.

Seventh. That the members elected in November, 1833, (and those succeeding to the places of such as may have become vacant since that period,) whether assembled or dispersed, are the only constitutional members of the *first regular* and yet continuing *Legislature*, under the new Constitution.

From these distinct propositions so deduced, it follows with the certainty of demonstration, that the NUMBER of members constituting the House of Representatives in November, 1833, *is the only true and correct number*, of which it can now be composed. Because the tenure of their commissions was for two years which has not yet expired; because no new and additional members, increasing the number of the Legislature, can have been since legally elected—for reason, that since then there has been *no general election* at which *only* they could have been returned pursuant to the Constitution. Upon the same basis of constitutional truth, it may likewise be asserted, that the persons also are the same now as then, except where superseded by death, resignation, or removal. And with the like certainty may it be said, that the counties and districts from which they come must be substantially the same now as then.

The last apportionment of Senators and Representatives before the new Constitution was adopted was made by the Legislature in December, 1830, by which there were assigned to the Senate twelve members, and to the House of Representatives thirty-six, apportioned to the several counties and districts therein enumerated, as may be seen by the acts of that session, page 81, chapter 55. The House of Representatives received a subsequent accession of one member from the county of Holmes, making their number thirty-seven, and with these several proportions in the respective houses of twelve to thirty-seven, *this* Legislature, elected at the *first general election*, commenced their session on the 16th of November, 1833,—no enumeration of inhabitants having been ascertained and reported, and no further apportionment made, *intervening* the act of December, 1830, and up to the period of November, 1833.

By the sixth section of the schedule to the new Constitution, it is provided, "That until the first enumeration shall be made *as di-*

rected by this Constitution, the apportionment of Senators and Representatives among the several Districts and Counties in this State, *shall remain as at present fixed by law.*"

The provision of the Constitution to which this section of the schedule refers, is found in section 9, of Article 3, and furnishes as is believed, the only debatable ground, on which the conclusion to which your committee have arrived, can be contested. It reads thus,

"The Legislature shall, at their first session, and at periods of not less than every four nor more than every six years until the year 1845, and thereafter at periods of not less than every four nor more than every eight years, cause an enumeration to be made of all the free white inhabitants of this State, and *the whole number of Representatives* shall, at the several periods of making such enumeration *be fixed by the Legislature*, and apportioned among the several counties, cities or towns entitled to separate representation, according to the number of free white inhabitants in each and shall not be less than thirty-six nor more than one hundred: *Provided, however*, That each County shall always be entitled to at least one Representative.

One of the principal rules which is laid down, not only to point the acumen of the jurist, but founded in the plainest dictates of common sense, to direct the mind in ascertaining the object and meaning of any instrument, is to consider it as a *whole* and so to construe it if *possible*, that some sense and consistency shall be found in *all its parts*. It can never be believed, because absurd and irrational, that any insrrument, willingly and honestly executed, could at the same time be intended to contain rules or principles in direct opposition to each other. More assuredly is this true, of an instrument containing the great and fundamental rules for the government of a free people, and drafted with that deep reflection and careful deliberation, which we are bound to believe, their own agents appointed solely to discharge the high and solemn trust must have bestowed upon it. It is scarcely *conceivable*, that an instrument executed under such circumstances, where every line was scanned and canvassed and debated for weeks together, could possibly contain principles of an unqualified contradiction, such as are seldom found in papers and documents proceeding from the most unlettered draftsman, in the ordinary business affairs of society. It is *unreasonable*, all will agree that such an instrument should be subject to such a construction, and quite *incredible* that of *necessity*, it must be so interpreted. A decent respect for the capacity and intelligence of the high functionaries from whom the instrument emanated, should forbid any other interpretation, than such, as produces harmony and consistency throughout, and such, as imports a rationality of meaning and expression, in every section and sentence it contains. Keeping in view these principles to guide them in their investigations, your committee will proceed to notice further the 6th section of the schedule, and based upon its provisions, they ask this question: 'Whether before an enumeration had been actually made of the free white inhabitants, &c.' as di-

rected by section 9 of article 3, there was any mode directly or indictly, by which the apportionment of Senators and Representatives could be changed, without a palpable violation of the revised Constitution as contained in section 6 of the schedule? They interpose for answer, the plain, the unperverted, the specific language of that section, viz: "*until the first enumeration shall be made* as directed by the Constitution, the apportionment of Senators and Representatives among the several districts and counties in the State shall remain as *at present fixed by law.*"

The terms "apportionment of Senators and Representatives," in their most general sense, as used in the Constitution, would seem to present themselves with these different phases, viz: Representatives are apportioned among counties, cities and towns—Senators are apportioned among districts: both are apportioned on free white inhabitants: both are apportioned on certain ratios of such inhabitants: both are apportioned with certain limitations to their entire numbers; and both are apportioned with certain relative proportions of numbers to each other. There can be no apportionment, nor any variation of an apportionment, but all these relative bearings and compound principles are to be regarded.

There are two allusions in section 6 of the schedule, which, in some degree, contribute to elucidate this main point in controversy, by aiding in the correct interpretation of section 9 of article 3. The *time*, before which, the apportionment shall *not* be changed, is certainly specified in section 6, viz: "until the enumeration shall be made." The *manner* in which that change shall be made is fairly signified by reference to the *time* when it shall be made, and the *act* of enumeration *on which* its making is predicated.

We are thus led by a direct reference to section 9 of article 3, where this *time* of enumeration, and *act* of causing the enumeration, upon which a change of apportionment may be produced, are both made the *special business* of the *Legislature*. Conjoined with this direct action of the Legislature, the further power and duty is assigned them in *this* language, viz. "And the *whole number* of representatives *shall*, at the *several periods* of making such enumeration, *be fixed* by the *Legislature* and *apportioned* among the *several counties*, &c., &c.: *Provided, however*, That each county shall always be entitled to at least one representative."

Is this proviso a substance and independent right, attaching as an *incident* to each county at its *creation*, and to all counties by virtue of their *existence as such; or*, is it an *imperative direction* to the *Legislature*, that in *fixing* the appointment of Representatives, they shall always *so apportion them*, that each county shall be entitled to at least one Representative? If the *former* be the correct construction, several conflicts of principles derived from the Constitution *may*, and some *must*, follow as its consequence: and yet no important object be attained by such interpretation. If the *latter* be adopted, harmony and consistency are restored, and the right obviously intended to be secured, is maintained in letter and spirit. The different consequences therefore, are matters of great and serious moment.

On reading this proviso by itself as confering a substantive and independent right, and, what is the sense and meaning to be perceived in the use of the words "*at least*"—shall always be entitled to *at least* one Representative? Do not these words obviously *imply*, that each county may be entitled to *more* than *one* Representative. But can it ever claim *more* than *one*, as a substantive and independent right? If such be the implication of these words, is it not necessarily true, that at the same *time* when such county stands in a relation which authorizes it to demand *at least one Representative*, its attitude and connexion at the *same period*, is such, that it *may* prefer its title to more than one. That the same *power* to which the county addresses its constitutional claims to *at least one Representative*, at the *same time* has a *duty* to perform in ascertaining if such county may not have a further claim to *more than one*. But the proviso considered as substantive and independent, does not point to *time* and *occasion*, when, though it shall be entitled to *at least one Representative*, it *may* be entitled to more.

And upon this construction of a substantive and unqualified claim to at least one Representative, does it not present the county *so asserting* its right, as singularly independent of the body politic. In the creation of a new county; *when* does this right attach? On enacting the law forming the new county? Without further legislation how is the new county to organize? How and when shall its elections be holden, and who shall be its returning officers? It is presumed that none will contend that a new county on its *mere creation as such*, can *effectually prefer* its representative pretentions, based upon this proviso, as *substantive*, *unqualified* and *independent*. But if further legislation be necessary in such cases, as all must agree it is, before the county is enabled to make its claim to representation *effective*, the proposition that the proviso is *substantive* and *unconditional* in its *requirements*, falls to the ground. Its dependence, for a fair interpretation of its meaning, upon the *whole* sentence of which it forms a part, must also be acknowledged, unless violence be done to the most common rules of composition.—And in this connection its obvious reading is: "Provided however that" (in such apportionment) "each county shall always be entitled to at least one Representative." The word "always" found in this proviso, is seldom used as expressing time of unremitted continuance, but is usually connected with some *action* or *event* of limited continuance, as that congress *always* meet in December.—But for further illustration of this proviso, the *body* of the section with which it is connected, appears to your committee most clear and unanswerable. Whatever may be the *number* of Representatives appointed among the *several counties*, &c. and whatever the *number* to *each* county respectively, whether "at least one" or *more than one*, it is certain, that the "*whole number of Represeutatives*" among *all* the counties shall be "*fixed*" by the "LEGISLATURE." Nor is this *fixing* of the *whole number* of Representatives, by the Legislature, in anywise sanctioned as the *casual* and *incidental* consequences of creating one or more new counties. But the Constitution has said

in language explicit and unequivocal, that this *whole number*, shall be fixed by the Legislature *"at the several periods of making such enumeration &c."*

Thus far your committee have endeavored to shew the affirmative interpretation of this proviso, the correctness of their construction is perhaps more readily established, by tracing out a few of the perversions, and contradictions, in which our Constitution *is*, or *may be involved*, by that interpretation, upon which the gentlemen as Representatives from the new counties *have been admitted as members of that body, now*, organized as the House of Representatives.

The Governor in his general message informs us that these members have been brought in by virtue of his writ of election to those new counties directed, on the opinion entertained by him, that *as counties* the Constitution secured to them *at least one* Representative: but the correctness and propriety of their participating in the *present session* of the *Legislature*, he has submitted to the consideration of the Houses respectively, to whom this message is addressed. Now, if these Representatives from the new counties (not chosen to fill vacancies happening in the House) are to be adjudged a constitutional portion of the *present Legislature*, then the provision of section 6 of article 3, "The Representatives shall be chosen every two years on the first *Monday and day following in November*," must be discarded, because these persons were not so elected.

Again—If this construction &c. prevails, section 5 of article 3 which provides, that "the Members of the House of Representatives shall be chosen by the qualified electors and shall serve for the term of two years, *from the day of the commencement of the general election*, and no longer" must also be discarded, because they cannot serve two years from *the general election*, if not elected at that time, as those were not.

Again—If this construction prevails and the *mere creation* of a new county changes the *actual apportionment* of Senators and Representatives, then section 6 of the schedule is rendered senseless and unmeaning, which forbids any *such change of apportionment*, until a given event, viz: *"an enumeration shall be made" &c.*

Again—If this construction obtain, the provision of section 9 of article 3 is *utterly perverted* which prescribes, that "The *whole number* of Representatives shall at the *several periods of* making such enumeration be fixed by the *Legislature* and apportioned among the several counties" &c. Because the *power* by whom,—the *time* when—and the *number* of Representatives to be *fixed* &c. are all set at naught, by such a construction.

But among those several sections of the Constitution manifestly infracted, that which stands most pre-eminently distinguished for the unqualified perversion which it suffers, is the provisions of section 10 of article 3, as follows: "The whole number of Senators shall at the several periods of making the enumeration before mentioned, be fixed by the Legislature and apportioned among the several districts to be established by law, according to the number of free

white inhabitants in each and *shall never be less than one-fourth*, nor more than one-third of *the whole number of Representatives.*"

Were all the new counties now represented in the House, by one member each, as has been *decided in their behalf* they have a *present right* to be; the *number* of that House would be fifty-three members, while the Senate has and are entitled at present to but twelve members. The Constitution as last quoted prescribes in terms of undoubted perspicuity, that the *number* of *Senators shall never*, be less than *one fourth* of the *whole number* of *Representatives*. But yet, the House *now* assembled, as the Representatives of the State, by the admission of members from the new counties, have in *fact established their numbers* to an amount *exceeding those* of the *Senate* in a *proportion* which the constitution says, they "*shall never*" *exceed*. Your committee do not conceive it *possible*, that any construction of the organic law can be sound, fraught with such mischievous inconsistences, with such palpable and unjust abstraction, from the *rights, powers*, and *proportions* secured to the *Senate* as a branch of the legislature.

In furtherance of their argument in this behalf, your committee will next refer to the Act of 25th of December 1833, Chapter XII, page 51, and known as the *last* apportionment law. Its first section reads thus:

"The following shall be the apportionment of Representatives in the Legislature of this State at *the next biennial* and all future sessions thereof, to wit:" &c. &c. It then proceeds to *fix* the *whole number* of Representatives at sixty-four; assigning to the sixteen new counties *each, one* Representative.

It cannot escape observation, on reading this section of the statute, that it contains the *expressed understanding* of *this* Legislature at its last session, of what it then deemed to be the *correct reading*, and interpretation, of the proviso, to section 9 of Article 3. Because, if *either branch* of the legislature *then* believed that the counties formed on the 23d of December, 1833, were entitled to representation *without an apportionment law*, assigning that right; with what propriety could they on the 25th of December have voted for a law which in *its express terms, deferred* and *postponed* that right, to the (*then*) *next biennial session?*

Your committee forbear all notice or comment on this law, for purposes of showing inconsistency of action in any department, but they simply urge its evidence, as the *expressed interpretation* of *this* Legislature, upon the main point in debate; comporting in all things, with those views now maintained by your committee.

But other provisions of that Act demand further attention. The number of Representatives were then thirty-seven, to which add sixteen, the number allotted by that apportionment to the *new counties*, and the *two* numbers make fifty-three. The *remaining* Representatives, to wit, eleven, making the *whole number* sixty-four, were apportioned among other counties of the State, on the *basis* of when *actual population then ascertained;* but *not now* represented, if members from the new counties are admitted to *their exclusion*. So, also, of Senators, their body was increased by that Act eight in

number, based likewise upon *population then reported* to the Legislature; but in consequence of the prospective operation of the law, *correctly* fixing their return to the next biennial session; that representation is not now in this House. Both the *spirit* and *justice* of the Constitution, your committee insist, suffers manifest violence, when *actual* and *ascertained population* are deferred the legislative halls, whilst claims, founded perhaps in some degree upon territorial representation, are urged with such *unequal preference.* Is it not enough, that the laborer of the eleventh hour should receive full wages, without depriving those of equal compensation who have borne the heat and burden of the day.

Your committee, therefore, believe that the principles of *right* and *justice* which the question involves, are equally apparent as the legal and constitutional basis upon which it rests.

Another consideration urged upon our attention by the Executive Message, and taken in connection with Section 17, of Article 7. of the revised Constitution, furnishes, as your committee believe, a legitimate argument in behalf of the interpretation they maintain. The propriety of forming new counties from the Chickasaw territory is commended by the Governor at the present time. The Section of the Constitution last alluded to, is as follows: "No new county shall be established by the Legislature which shall reduce the county, or counties, or either of them, from which it may be taken, to less contents than 576 square miles, nor shall any new county be laid off, of less contents.

It is believed that so far as the geographical admeasurement of our State has been ascertained, its area is not less (and perhaps considerably exceeding) 51000 square miles. By the Constitution as last quoted, the *competency* of the Legislature, if now properly in session, to adjust the entire territory of the State into counties of 576 square miles each, will not be doubted. Suppose this were now done, from 43 counties as at present, their number would be increased to 88. Extend to each county thus created an *absolute* and *immediate right* to one Representative each, in the *present* Legislature without waiting for that period before which even all the powers of the Legislature are *incompetent* to change the apportionment law; and the result *is*, and *must be*, that one hundred and nine Representatives are introduced into the House at the same time. But we find that by article 3 section 9 of the Constitution, that the number of Representatives shall not be *more than one hundred at any time.* And can it be true, this further, and not merely *possible*, but almost *probable*, conflict, and contradiction, is also to be encountered? *Such an act*, would *now exhibit* the *Senate*, with *less* than one *ninth* of the number, of *such* a House of Representatives.

Another argument in accordance with those already advanced, is also derived from the Constitution. By section 18 of article 3, it is provided, "When vacancies happen in either House, the Governor or person exercising the powers of the Goverour, shall issue writs of election to fill such vacancies."

It may be admitted that the creation of an office creates also a va-

cancy to be filled by *some* authority. But it would be a strained construction, which would extend the power of issuing writs of election to fill vacancies *happening in either House*, to the issuing of writs of election to fill vacancies occasioned by the legislative creation of new offices, or new places, within both or either of those Houses. This error of construction is made more manifest by adverting to the law, which, when in this sense, it created vacancies in the House of Representatives for the new counties, created also, eleven other vacancies in the same House, and eight other vacancies in the Senate. These 19 other vacancies have not been considered (and correctly as your committee believe) within the range of this writ of election to fill vacancies, notwithstanding the power extends to filling vacancies *in either House*, and all these vacanies were thus occasioned by the *same* law, and at the *same* time. Referring, however, to another portion of the Constitution, *necessity*, that only argument (as in this case) by which a strained interpretation is ever justified, is effectually put to silence. Article 5 section 13, provides that all vacancies not provided for in this Constitution, shall be filled in such manner as the *Legislature shall prescribe*."

Now, if, as your committee believe, the vacancies so created as aforesaid, do not fall within the proper exercise of the power conferred by section 18, article 3, to fill vacancies happening in either House; and if to fill vacancies so created, is not otherwise provided for in the Constitution, then they are of that class of vacancies to be filled in such manner as the *Legislature* shall prescribe, and are not left to be filled by any other department of the government. And your committe find that the *same* Legislature, and at the *same time*, when they so created the vacancies in the two Houses as aforesaid, so far in their own judgments provided for filling them, as to specify the time of their being filled, at "*the next biennial session*," before which, the period of election appointed by the Constitution would arrive, *at which time only*, such vacancies could be filled, viz. at the then next biennial election.

Your committee believe the Legislature had not only the *right* thus to indicate *the time* at which these places or vacancies should be filled, but they were bound, under the Constitution, to fix and defer that time, as in the law they have done. They believe this law in strict conformity with the Constitution; and they are well assured that no change of the apportionment of Senators and Representatives could be made but by the concurrence of *both Houses as the Legislature*, and then only at such times and with such limitations as the Constitution prescribes.

With all these facts and views before them, your committee reluctantly arrive at those conclusions they deem inevitable, and whereof they make report: That other persons beside those comprising the House of Representatives on the 16th of November, 1833, and beside those who have succeeded to vacancies since happening in that House, now compose a large portion of that body now assembled as the House of Representatives, and because of this extraordinary accession of numbers acquired, as your committee believe, without right or proper authority, they further find and make report:

That the body now assembled as the House of Representatives, is not, in verity, the House of Representatives of the State of Mississippi; and for all those causes before specified, the two bodies now assembled by executive convocation as the Legislature of the State of Mississippi, *are not* the Legislature recognized and established by the Constitution and laws of the land. And upon all these facts, and for all the reasons before presented, your committee find and make report:

That this House, in concert with the body now assembled as the House of Representatives, *cannot* constitutionally enact and discharge legislative duties.

All of which is respectfully submitted.

JOHN HENDERSON, *Ch'n*,
THO. P. FALCONER,
JESSE HARPER,
} *Committee.*

SENATE CHAMBER, *Jackson, Mi.*
Monday, 26th Jan. 1835.

EXHIBIT A.

DEPARTMENT OF STATE, SECRETARY'S OFFICE,
JACKSON, *23d January*, 1835.

Hon. JOHN HENDERSON:

Sir:—Agreeably to your request, I have the honor to present, you herewith, a writ, which in form, is such an one as was addressed on the date which it bears, to the several sheriffs of the following new counties, viz:

1. Kemper.
2. Lauderdale.
3. Clark.
4. Oktibbeha.
5. Winston.
6. Choctaw.
7. Tallahache.
8. Yallabusha.
9. Carroll.
10. Jasper.
11 Neshobe.
12. Smith.
13. Scott.
14. Leake.
15. Attala.
16. Noxubbee.

In pursuance of the writs, I find as aforesaid, the several persons hereinafter enumerated, have been returned as having been duly elected, which returns are on file in this office.

From Neshobe,	James Ellis.
" Smith,	Emanuel Durr.
" Oktibbeha,	Henry Gibson.
" Clarke,	Samuel K. Lewis.
" Lauderdale,	Samuel Dale.
" Jasper,	John C. Thomas.
" Yallabusha,	Robert Edrington.
" Scott,	—— White.
" Winston,	Jesse M. Field.
" Noxubbee,	Thomas D. Wooldridge.

" Tallahachee, Charles Bowen.
" Carroll, Greenwood Leflore.

I have the honor to be,
respectfully, your most ob't.
DAVID DICKSON,
Secretary of State.

BY H. G. RUNNELS,
GOVERNOR OF THE STATE OF MISSISSIPPI.

To the Sheriff of —— County:

WHEREAS, a vacancy exists in your county for a Representative in the Legislature in our said State—

I do therefore issue this Writ, authorizing and requiring you, to held an election in your county on the second Monday in December next and the day following, to fill the vacancy existing as aforesaid; and moreover, I do enjoin you to conduct said election in all respects conformably to law, and make due return thereof.

Given under my hand and the Great Seal of the State, at Jackson, on the 4th day of November, A. D. 1834, and of the sovereignty of the State the seventeenth.

By the Governor. H. G. RUNNELS.
DAVID DICKSON,
Secretary of State. (Copy.)

EXHIBIT B.

JOURNAL

Of the House of Representatives, of the State of Mississippi, at a Session thereof, convened at the State House in Jackson, on Monday, the 19th day of January, 1835, in accordance with a Proclamation of the Governor of the State.

The honorable A. L. BINGAMAN, Speaker, called the House to order;

And the roll being called by the Clerk, the following members answered to their names, to wit:

Mr. Anderson,
Boyd,
Davis,
Dease,
Dunbar,
Ellis,
Gholson,
Gildart,
Harris
Hopkins,
Mr. Jayne,
Learned,
Maury,
McLendon,
McNabb,
Sharp,
Tucker,
Vannerson,
Van Norman.

The following members, elected to fill the vacancies which have occurred since the adjournment of the House, in December, 1833, also appeared, produced their credentials, and being duly sworn took their seats, to wit:

From Hinds county, - - Thomas H. Williams.

Copiah county,	- -	Seth Granberry.
Holmes county,	- -	William W. George.
Pike county,	- -	Franklin Love.
Lawrence county,	- -	Major Newton.
Greene county,	- -	Allen McCaskill.
Wayne county,	- -	Alfred Brown.
Madison county	- -	David M. Fulton.

The following persons returned as members elect to this House, from the counties organized, in pursuance of an Act of this Legislature, at its last session, appeared and presented their credentials, to wit:

From Carroll county,	- -	Greenwood Leflore.
Clarke county,	- -	Samuel K. Lewis.
Jasper county,	- -	John C. Thomas.
Kemper county,	- -	Francis Thomas.
Lauderdale county,	-	Samuel Dale.
Noxubbee county,	- -	Thomas D. Wooldridge.
Octibbeha county,	- -	Henry Gibson.
Winston county,	- -	Jesse M. Field.
Yalabusha county,	-	Robert Edrington.

On motion of Mr. Vannerson,

Resolved, That the credentials of the members representing new counties, be referred to the Committee on Elections, with instructions to report thereon, at the meeting of this House, to-morrow morning.

The Chair appointed Messrs. Van Norman and Dunbar, on said committee, to fill the two vacancies therein.

On motion of Mr. Vannerson,

Resolved, That the Clerk be directed to inform the Senate, that the House of Representatives have formed a quorum, and are now ready to proceed to business.

On motion of Mr. Gholson,

The House adjourned until to-morrow morning, at 10 o'clock.

TUESDAY, JANUARY 20, 1835.

The House met pursuant to adjournment.

Mr. Malcolm Gilchrist, a member elect from the county of Jefferson, to fill the vacancy occasioned by the death of Thomas H. Watkins, appeared, produced his credentials, was duly sworn, and took his seat.

Mr. Vick, of Warren, Mr. Demoss, of Hinds, and Mr. Brown, of Simpson, appeared and took their seats.

Mr. Henry Harper, a member elect, from the county of Leake, appeared, and presented his credentials.

Mr. Emanuel A. Durr, a member elect, from the county of Smith, also appeared, and produced his credentials.

Mr. Maury, from the committee on Elections, made the following

REPORT.

MR. SPEAKER: The Committee on Elections have had under consideration, the credentials of members elected to fill vacancies, occasioned in this Legislature, by death and resignation, and have instructed me to report, that the following members have been elected to supply the vacancies for their respective counties.

William W. George, to fill the vacancy of J. C. Bole, resigned.

M. Newton, to fill the vacancy of S. Hunter, deceased.

Allen McCaskill, to fill the vacancy of David McRae, resigned.

Alfred Brown, to fill the vacancy of John Watts, resigned.

David M. Fulton, to fill the vacancy of R. M. Williamson, resigned.

Franklin Love, to fill the vacancy of Charles C. Cage, resigned.

Thomas H. Williams, to fill the vacancy of A. Albert Allen, deceased.

Seth Granberry, to fill the vacancy of John Beesley, deceased.

All of which, is respectfully submitted.

J. H. MAURY, *Chairman.*

On motion of Mr. Maury,

Resolved, That the same report be received.

On motion of Mr. Tucker,

Ordered, That the same lie on the table.

Mr. Maury, from the same committee, made the following report, to wit:

Report of the Majority of the Committee of Elections on the Claim to Membership of the New Counties.

The committee of elections, to whom was referred the credentials of the members elected for the new counties, have had the subject of reference under consideration, and have instructed me to report, that John C. Thomas, is duly elected a representative for the county of Jasper.

That Jesse M. Field, is duly elected a representative for the county of Winston.

That Greenwood Leflore, is duly elected a representative for the county of Carroll.

That Francis Thomas, is duly elected a representative for the county of Kemper.

That Robert Ederington, is duly elected a representative for the county of Yalabusha.

That Thomas D. Wooldridge, is duly elected a representative for the county of Noxubee.

That Henry Gibson, is duly elected a representative for the county Octibbeha.

That Samuel K. Lewis, is duly elected a representative for the county of Clarke.

That Samuel Dale, is duly elected a representative for the county of Lauderdale.

The committee have also instrcted me to report the following resolution.

Resolved by the House of Representatives of the State of Missis-

sippi, That the counties that were established by the legislature at the last session, are legally and constitutionally entitled to representation at the present session thereof, and that the members elected as aforesaid, are entitled to their seats in this House.

J. H. MAURY, *Chairman.*

On motion of Mr. Maury,

Resolved, That said report be received.

On motion of Mr. Maury,

Ordered, That the same lie on the table.

Mr. Maury, from the same committee, made the following

REPORT:

Report of the Minority of the Committee on Elections on the claim to membership of the Representatives from the New Counties.

The undersigned, one of the members of the Committee of Elections, has not been able to concur in the decision of the majority, to report favorably to the claim of the new counties, to representation in the present legislature. It is at all times unpleasant to differ, on interesting and important topics, from those with whom we have to co-operate. It is peculiarly unpleasant when the difference of opinion obstructs, as in this case, the attainment of an ardent and sincere wish, and may even be attributed to a spirit of opposition where no such spirit can exist. There are, however, certain principles of political conduct, which the undersigned has adopted for his direction through life, which he can never dispense with, though they may, as in the present case, conflict with the harmony of his feelings. It is with us, a political axiom, that we live in a government of laws; that no functionary of the law, whether legislative, judicial or executive, has a right to perform an act, whether for *weal or for woe*, unless it be performed in conformity with the law. The people have ordained a written constitution for our rule of government; we are one of the chosen instruments for its enforcement, and if we disregard the will of the constitution, we act without the authority of law; we become the usurpers of power which has never been conferred; we tyranize over the constitution itself, which is the high, and the only majesty that we are willing to recognise on earth. Acting under the influence of these feelings, the undersigned approached the subject of reference, with feelings favorable to the claim of the new counties, and with a resolution settled in the purpose of abiding the decision of a fair and candid interpretation of the constitution. The best interpretation that he has been able to place upon that instrument has led him to a decision against the claim, and he begs leave to lay before the House the reasons which have conducted his mind to a decision against it.

The new counties were organised in pursuance of an act of the present legislature, bearing date the 23rd December, 1833. In the same session, but at a period subsequent to the act organising the new counties, was passed the law of apportionment, fixing the ratio of representation in the two Houses of the Legislature "at the next biennial and all future sessions thereof." It is obviously inferrible from the phraseology of the law, that the legislature did not

intend to entitle the new counties to a right of representation, until after the ensuing general election; nor did they suppose that they were creating vacancies in their own body to be supplied by the intervention of special elections. The new counties however, assert a title to representation in the subsisting legislature, and derive their claim from a source superior to the law which created them.

The section of the constitution which ordains the basis, and the ratio of representation concludes with a proviso "that each county shall always be entitled to at least one representative. They construe the constitution as creating of itself, an effectual investment of a right of representation, to each county from the moment of its corporate existence; and rely on the position that the power of the legislature is not competent to suspend the right even for the term of its own duration.

The undersigned yields to the position, that if the constitution has vested a right, it cannot be impaired by the legislature. It is highly questionable, however, whether a legislature of this State has the power to create a vacancy in its own body, by diminishing or enlarging the number of its members in either branch. The constitution is designed to check or control, as much the action of the legislature, as of any other department of the government. The exercise of power is in some cases denied to a majority, and requires a concurrence of two thirds of the legislature. This feature of the constitution is intended for the wise and salutary purpose of protecting co-ordinate functionaries against the exercise of power by a bare majority of the legislature, which is yet, safely confided to a concurring majority of two thirds. But how vain and illusive would be this constitutional precaution, if a bare majority of the legislature could enlarge its numbers, by the introduction of materials suited to the attainment of its purpose. It cannot be a safe construction of the constitution, that would enable a majority to exercise a power by evasive indirection, which is expressly and designedly withheld. Though this position is not in itself conclusive, it is taken by the undersigned as tending to negative the opinion that any vacancy existed in the present legislature, that required special elections in the new counties which it has created. The present legislature is as full and complete in number, as it was on the day succeeding the last general election, and it is difficult to conceive the existence of a vacancy in a body politic which was full and perfect in its inception, and yet remains numerically and identically the same.

Though the constitution has made provision for the special convention of the legislature, it is evidently expected to be applied only on extraordinary occasions; each legislature will, regularly under the constitution, hold but one session for the transaction of business. It is not within the scope of possibility, that a new county could be represented in the legislature *immediately* after the passing of the law for its creation; nor was it contemplated that a session of the legislature after passing a law for the establishment of a new county, would endure long enough to organise the county, execute writs of election and return representatives previous to adjournment. It

results therefore, that if the constitution confers the right of representation upon a county, from the fact, and from the moment of its creation, it is *ipso facto* convicted of the absurdity of creating a privilege which cannot be exercised—of conferring a right which cannot be enjoyed.

The anomaly becomes still more ridiculous, when it is viewed in the attitude of a county, vested with the right of sending representatives, while the instrument which is said to confer the right, requires the qualification of membership, which no candidate can possibly possess. The constitution cannot have intended to confer the right of representation, on mere geographical territory; but in speaking of counties it must be construed to have alluded to the inhabitants organised into corporate, or political, or municipal bodies, together with the laws, and perhaps the institutions by which they are thus organised. The territory has at all times existed, but the origin and existence of the counties, must be dated with the passage of the law, by which they were originated. The law which gave birth and beginning to the counties, was passed on the 23rd day of December, 1833, and their election for representatives was held within twelve months thereafter; but as the constitution requires a resident of twelve months within the body of the county, as a necessary qualification of a member, ingenuity is unable to furnish the means of dispensing with the requirement without an infraction of the constitution.

Other arguments might be drawn from the Constitution, tending to similar conclusions, and while harmonizing the conflicting features of the Constitution, would avoid the inevitable obstructions that are opposed to the decision of the Committee. But the undersigned will enlarge no farther upon the subject, except to remark upon a section of the constitution, which presents an argument that his mind has been totally unable to resist. The section which ordains the basis and apportionment of representation in the Senate, concludes with a positive affirmation, that the number of Senators "shall never be less than one-fourth of the whole number of representatives." The Senate is constituted of twelve members; the House of Representatives contains thirty-seven members, who represent the old counties; but if the 16 new counties, shall be each of them, represented by a member, the number of Senators will be less than one-fourth of the number of representatives—which is directly repugnant to the Constitution. It is conceded to be a directory provision, but it is therefore no less obligatory, and while the Constitution ordains that the Senate shall never consist of less than one-fourth of the number of representatives, human ingenuity will not be able to discover the time when it may consist of less. It is equally difficult to conceive how a Legislature can be organized consistently with the Constitution, while it is organized in a manner which the Constitution expressly prohibits. It might be less jaring to the symmetry of construction, to give a directory character to the section which provides, that each county shall always be entitled to one representative. But if the repugnance cannot be obviated, the validity of the law which occassions it, must yield to the integrity of

the Constitution: and if the claim of the new counties to representation in the present Legislature, is a necessary result of the law which created them, and cannot be otherwise dispensed with, the law itself is void, and so far from being entitled to representation, the invalidity of the law would negative their existence as counties. Such in the opinion of the undersigned would be the inevitable result of the argument and decision of the Committee—a result which, however deplorable, may yet be more easily rectified than a broken Constitution.

The undersigned is indifferent, as to the effect which the foregoing suggestions may produce. In making the expose, he has acquitted himself of the consciousness of having neglected the performance of a duty. If the House shall concur in the resolution of the Committee, he will be gratified at the result, though he may not be able to participate in producing it. If on the other hand, the reasons which have prevailed with him, should lead the House to a conclusion similar to his, so far from being gratified in the result, it would be a source of sincere and undissembled mortification. He regards the new counties with sentiments of friendship, and anticipates with proud feelings, the extension of our settlements, the increase of population, the advancement of industry and the arts, and the establishment of a domestic character, which may be contemplated with pleasure by ourselves, and will illustrate the name of Mississippi among the states of the confederated union. There is no inclination to exercise the powers of government in exclusion of our brethren of the new counties. The undersigned would concur in the opinion that it would be better to adjourn the Legislature, and postpone the transaction of business till after the next general election, when the representatives of the people could meet from every section of the state in feelings of perfect fellowship, and enter upon the transaction of business without encountering the danger of tearing down the supremacy of the Constitution.

JAMES H. MAURY.

On motion of Mr. Maury,

Resolved, That said Report be received.

On motion of Mr. Tucker,

Ordered, That the same lie on the table.

Mr. Boyd called for the consideration of the Reports of the majority and minority of the Committee on Elections in relation to the members from the new counties, just laid on the table; which call, was sustained.

On motion of Mr. Boyd,

Ordered, That one hundred copies of each of said Reports be printed for the use of this House.

On motion of Mr. Williams,

Ordered, That Mr. Johnson, Editor of the Clinton Gazette, be admitted to a seat within the bar of the House.

Mr. Davis moved that the Reports of the Committee on Election, from the majority and from the minority, in relation to the members from the new counties, be laid on the table;

But before the question was taken,
On motion of Mr. Gildart,
The House adjourned until 3 o'clock, P. M.

THREE O'CLOCK, P. M.

The House met pursuant to adjournment.

Mr. Van Norman moved that the House adjourn until to-morrow morning at 10 o'clock, A. M.

The ayes and nays were called for by the members of the House, and were as follows, to wit:

Those who voted in the affirmative are—

Messrs. Dease, Ellis, of Jones, Fulton, Gholson, Gildart, Harris, Hopkins, Love, Tucker, Van Norman, Williams—11.

Those who voted in the negative, are—

Messrs. Speaker, Anderson, Boyd, Brown of Wayne, Brown, of Simpson, Davis, Demoss, Dunbar, George, Gilchrist, Granberry, Jayne, Learned, Maury, McCaskill, McLendon, McNabb, Newton, Sharp, Vanneson, Vick.—21

So the motion was lost.

The House resumed the consideration of the motion, made by Mr. Davis on this day, that the Reports from the majority and the minority of the Committee on Elections, lie on the table.

The question was first taken on the Report of said Committee.

The ayes and noes were called for, by three members of the House, and were as follows, to wit:

Those who voted in the affirmative are—

Messrs. Boyd, Dease, Davis, Ellis, of Jones, Fulton, George, Gholson, Gildart, Hopkins, Jayne, Love, McCaskill, McLendon, Sharp, Tucker, VanNorman, Williams—17.

Those who voted in the negative are—

Messrs. Speaker, Anderson, Brown, of Simpson, Brown, of Wayne Demoss, Dunbar, Gilchrist, Granberry, Harris, Learned, Maury, McNabb, Newton, Vannerson, Vick.—15.

So the motion prevailed, and the Report of the majority of the Committee was laid on the table.

Mr. Van Norman moved that the Report of the Committee on Elections, in relation to the election of members to fill vacancies, be laid on the table,

And the question thereon being taken,

It was decided in the negative.

On motion of Mr. Learned.

Resolved, That said Report be agreed to.

Mr. Sharp moved that the House do now adjourn,

And the question thereon being taken, it was determined in the negative by ayes and nays, called for by three members to wit:

Those who voted in the affirmative are—

Messrs. Brown, of Wayne, Dease, Demoss, Ellis, of Jones, Fulton, Gholson, Gildart, Jayne, Love, Maury, McCaskill, Sharp, Van Norman, Williams—14.

Those who voted in the negative are,

Messrs. Speaker, Anderson, Boyd, Brown, of Simpson, Davis, Dunbar, George, Gilchrist, Granberry, Harris, Hopkins, Learned, McLendon, McNabb, Newton, Tucker, Vannerson, Vick,—18.

The following members of the House, whose credentials had been previously presented, were duly sworn by the Speaker, and took their seats, to wit:

Mr. Dale, Mr. Durr, Mr. Edrington, Mr. Field, Mr. Gibson, Mr. Harper, Mr. Leflore, Mr. Lewis, Mr. Thomas, of Jasper, Mr. Thomas, of Kemper, and Mr. Wooldridge.

Mr. Tucker called for the consideration of the Report of the majority of the Committee on Elections, made this day, in relation to the members of this House, returned as elected from the new counties.

Mr. Tucker moved that the House do agree to said Report,

And the question thereon being taken,

It was resolved in the affirmative.

On motion of Mr. Learned,

Ordered, That the Report of the minority of said Committee lie on the table.

Mr. Learned moved that the House do now adjourn until 10 o'clock to-morrow morning;

And the question thereon being taken,

It was determined in the negative.

Mr. Granberry moved that the House adjourn until to-morrow morning at 9 o'clock,

Which was also determined in the negative.

The Speaker laid before the House the Annual Report of the State Treasurer.

On motion of Mr. Learned,

Ordered, That the same lie on the table.

The Speaker also laid before the House the Annual Report of the Auditor of Public Accounts.

On motion of Mr. Land, said report was received.

Mr. Cocke moved to lay said report on the table—the motion was negatived.

Mr. Land moved to print 500 copies of the report and accompanying documents—which motion was affirmed.

And then the Senate adjourned to 3 o'clock P. M.

THREE O'CLOCK P. M.

The Senate convened pursuant to adjournment.

On motion of Mr. Falconer,

The vote of the Senate of this day, before adjournment, ordering the printing of 500 copies of the report of the select committee last aforesaid, and the accompanying documents, was reconsidered.

Mr. Falconer then moved to agree to said Report:

Mr. Cocke moved to lay said report, &c. on the table—which motion was negatived.

Mr. Cocke, then addressed the Senate in opposition to the motion of Mr. Falconer, to agree to said report.

Mr. Henderson followed Mr. Cocke, but in favor of the motion of Mr. Falconer. Before he concluded,

The following message was receved from the House of Representatives, by Mr. Cornell, their clerk.

Mr. PRESIDENT: The House of Representatives have passed a Bill, to be entitled "an Act prescribing the time, manner and place, of holding the elections for Senators to Congress,"

In which they desire the concurrence of the Senate.

Mr. Henderson continued his speech, but before he concluded, two messages were received from the House of Representatives by Mr. Cornell, their clerk, as follows, to wit:

Mr. PRESIDENT: The House of Representatives have given leave to introduce bills of the following titles, to wit:

"An Act to authorize Isaiah Hudnall, of Lawrence county, to sell certain real estate lying in the county of Claiborne, State of Mississippi;"

"An Act to dispense with the time prescribed by law for William H. Tillery, of Copiah county, attaining the age of majority;"

"An Act to change the name of Miram Griffith Sims, to that of Miram Griffith, and for other purposes;"

"An Act to incorporate the Union Insurance Company;"

"An Act to alter and amend the 128th section of the thirteenth chapter of the revised Code;"

"An Act to repeal the twenty-first section of an act, entitled an act to organize and establish Circuit Courts, and to define their powers and jurisdiction in law and equity, approved the 2nd March, 1833."

They have also adopted the following joint resolution:

Resolved, That a joint Committee be appointed to consist of one member from each Senatorial District, on the part of this House, and members on the part of the Senate, whose duty it shall be to enquire into the expediency of making amendments to the Revised Constitution of the State of Mississippi, with instructions to report to this House, a Bill embracing such amendments as they may deem necessary."

In which resolution they desire the concurrence of the Senate.

The House of Representatives have appointed on their part, Messrs. Jayne, Boyd, Vannerson, Granberry, Maury, Vick, Sharp, Williams, McNabb, Anderson, Dease, and Carpenter.

Mr. PRESIDENT: The House of Representatives have given leave to introduce a bill of the following title, to wit:

"An Act to reduce the amount of the Bond of the Clerk of the Circuit Court, of Smith county, and to authorize the Judge of Probate of said county, to approve of the same.

Also, a "resolution granting leave of absence to the Honorable James Scott, from this State, two months."

Mr. Hendersen then concluded his Speech—it being late in the afternoon.

Mr. Quitman then expressed a wish to give his views on the subject, but intimated that it would suit him better to do so on to-morrow.

Mr. Brown, then with a view to accommodate Mr. Quitman, moved an adjournment. Mr. Brown's motion was sustained, and the Senate adjourned to 10 o'clock to-morrow morning.

TUESDAY, JANUARY 27, 1835.

The Senate convened pursuant to adjournment.

The journal of the 26th inst. was read.

Mr. Quitman, then addressed the Senate for about two hours, advocating the adoption of the report of the select committee, raised on the resolutions presented by Mr. Henderson, on the 21st inst.

The following message was received from the House of Representatives, by Mr. Cornell, their clerk, as follows, to wit:

Mr. PRESIDENT: The House of Representatives have passed a bill to be entitled "an Act for the relief of Robert Y. Wood," in which they desire the concurrence of the Senate: also, by the same, received the following message:

Mr. PRESIDENT: The House of Representatives, have given leave to introduce bills of the following titles, to wit;

"An Act to reduce the amount of the bond of the Clerk of the Circuit Court of Smith county, and to authorize the Judge of Probate, of said county, to approve of the same."

"An Act to divide Neshoba county, and for other purposes."

They have also, passed bills of the following titles, to wit: In which they desire the concurrence of the Senate.

"An Act to reduce the compensation of members of the board of county police, in certain counties therein named."

"An Act to establish the town of Holmesville, a district entitled to a justice of the peace."

The House of Representatives have also, given leave for the introduction of a bill, to be entitled,

"An Act to incorporate the Commercial Bank of Rodney."

Also, by the same, received the following message:

Mr. PRESIDENT: The House of Representatives have passed bills of the following titles, to wit:

"An Act to incorporate the town of Woodville."

"An Act to legitamatize certain children therein named."

"An Act authorizing the board of county police, of the county of Jefferson, to audit the claims of John Baldwin, and C. Murray, of said county."

"An Act to provide for the collection of the State and county tax, of the county of Hancock, for the years 1833, and 1834." And,

"An Act to divide the southwestern district of Yalabusha county."

In which they desire the concurrence of the Senate.

Messrs. Cocke, and Hargis, addressed the Senate in opposition to the adoption of said report—Mr. Henderson replied.

Mr. Falconer, then moved an adjournment of the Senate until 3 o'clock P. M.

Mr. Harper, called for the previous question, but before any vote was taken thereon,

Mr. Brown, moved that the Senate adjourn to half past 2 o'clock P. M.

Mr. Hargis, moved to adjourn to 3 P. M.

Mr. Hargis' motion, and Mr. Brown's also, were both successively negatived.

Mr. Cocke, moved to adjourn until 3 P. M.—Mr. Cocke's motion was also negatived.

The Senate decided that the main question should now be put—

And thereupon, said report was put on its passage, and the yeas and nays being demanded on the adoption or rejection of said report, were taken, and were as follows, to wit:

Yeas—Mr. President, (Briscoe) Messrs. Falconer, Harper, Henderson, Land, Quitman, and Tracy—7.

Nays—Messrs. Brown, Cocke, Davis, and Hargis—4.

So said report was agreed to.

Mr. Magee, was absent, being so ill as not to be able to attend.

And then the Senate adjourned to 4 P. M.

FOUR O'CLOCK P. M.

The Senate met pursuant to adjournment.

Mr. Cocke, presented the following resolution for adoption, to wit:

Resolved, That the Secretary of the Senate, furnish the House of Representatives, with a copy of the report of the select committee, to whom was referred the resolutions on the subject of enquiry, whether the two bodies of which this is one, and now assembled under the Executive convocation, as the legislature, be, or be not, the legislature, recognized and established by the constitution and laws of the land, and that the secretary inform the House of Representatives, that the Senate has received, and agreed to said report.

On motion of Mr. Quitman,

Said resolution was laid on the table.

The following message was received from the House of Representatives, by Mr. Cornell, their clerk.

Mr. PRESIDENT: The House of Representatives, have given leave to introduce a bill, to be entitled,

"An Act to lay out and open a road therein named."

On motion of Mr. Quitman, the following Preamble and Resolution were adoptd by the Senate, and were by order of the Senate, immediately communicated to the House of Representative by the Secretary of the Senate. to-wit:

WHEREAS, The Senate hath agreed to the report of a Special Committee, which concludes in the following words to wit: "With all these facts and views before them, your committee reluctantly arrive at those conclusions they deem inevitable, and whereof they make report, that other persons beside those comprising the House of Representataves on the 16th of November, 1833, and beside those who have succeeded to vacancies since happening in that House. now compose a large portion of that body now assembled as the House of Representatives, and because of the extraordinary accession of members acquired, as your committee believe without right or proper authority, they further find and make report, that the body now assembled as the House of Representatives, is not in verity the House of Representatives of the State of Mississippi, and for all these causes before specified, the two bodies now assembled by Executive convocation as the Legislature of the State of Mississippi, are not the legislature recognized and established by the constitution and laws of the land, and upon all these facts, and for all these reasons before presented, your committee also find and make report, that this House in concert with the body now assembled as the House of Representatives, cannot constitutionally enact and discharge legislative duties; all of which is respectfully submitted:" And, whereas, the Senate by agreeing to said

report, hath adopted the said conclusions as a rule of definitive action;

Therefore, Resolved, The said House of Representatives concurring, that this Legislature will adjourn on to-morrow, at 12 o'clock meridian, *sine die*".

On motion of Mr. Quitman, the following resolution was adopted unanimously.

"*Resolved*, That in testimony of respect, for the memory of Fountain Winston, deceased, late a Senator from the county of Adams, the members of the Senate will wear crape on the left arm for the space of thirty days;"

And then the Senate adjourned to 10 o'clock, A. M. to-morrow.

WEDNESDAY, JANUARY 28, 1835.

The Senate convened pursuant to adjournment, at ten o'clock A. M.

The journal of the 27th instant was read.

The following message was received from the House of Representatives, by Mr. Cornell, their Clerk.

MR. PRESIDENT:,

The House of Representatives have given leave to introduce bills of the following titles, to-wit:

"An Act to establish permanently the Seat of Justice for Smith county, and for other purposes."

"An Act to carry into effect the second section of the seventh article of the Constitution."

Mr. Henderson moved, that the Secretary of the State, cause to be printed 500 copies of the Report of the Select Committee, composed of Messrs. Henderson, Falconer, and Harper, raised on the resolutions presented by Mr. Henderson, on the 21st of January, instant.

Mr. Tracey moved to amend Mr. Henderson's motion, by inserting "1000" in place of "500;" and Mr. Tracey's motion was sustained after some debate, and 1000 copies ordered to be printed;

And then the Senate adjourned to 3 o'clock, P. M.

The Senate convened at 3 o'clock, P. M. pursuant to adjournment, and after remaining in session an hour or two without transacting any business, adjourned to 10 o'clock, A. M. to-morrow.

THURSDAY, JANUARY 29, 1835.

The Senate convened pursuant to adjournment.

Mr. Cocke, asked leave to present and read a protest, which he held in his hands, against the adoption of the report of the select committee, (Messrs. Henderson, Harper, and Falconer,) made on the resolutions presented by Mr. Henderson on the 21st inst.

Said protest was then read, and ordered to be spread upon the journals.

Said protest is as follows, to wit:

The undersigned, Senator, from the senatorial district, composed of the counties of Monroe, Lowndes, and Rankin, asks leave to enter his protest against the agreement of the Senate to the report made by the select committee, to whom was referred certain resolutions by the Senate, seeking to inquire into and make report, whether the two bodies of which the Senate is one and now assembled under the executive convocation as the Legislature of the State of Mississippi, be or not, the legislature recognized and established by the Constitution and laws of the land.

In looking into the said report, the attention of the undersigned was strikingly called to the readiness of the said committee to vindicate the constitutional organization of the Senate, and thereby their own qualifications. This was within the admitted constitutional province of the Senate; and had the Senate contented itself with its own organization, the important legislation necessary for the country, could have proceeded harmoniously to its legitimate consummation. But in the proceedings aforesaid, the Senate hath not only eulogized its own organization, but has usurped the province of declaring the organization of the House of Representatives, the "co-ordinate branch of the Legislature," obnoxious to the Constitution. The right of the Senate to assume such an attitude is not to be found in any article of the Constitution; is a violation of the common rules and courtesy, necessary in all legislation; is altogether unprecedented; and is without all legitimate principle. The only articles in the Constitution which bears at all on this branch of the subject, is contained in sections fifteen and sixteen of the legisiative department. In these, the following language is used: "Each House shall judge of the qualifications and elections of its own members:" "Each House may determine the rules of its own proceedings:" &c. The undersigned is therefore

compelled to pronounce, that the Senate, in taking jurisdiction of the subject at all, hath assumed a superintending and appellate control over the exclusive province of the House of Representatives, denied to the Senate by the first principles of the Constitution. It is impossible to read the Constitution of this State without being impressed with the fact, that the Convention, in making the distribution of the powers of government, divided them into three distinct departments, those which are legislative to one, those which are judicial to another, and those which are executive to another. As much right had the Senate to usurp the executive and judicial authority of the State, as the exclusive legitimate province of the House of Representatives. The distinctive characteristic of the representative principle of our own government is, that the people in the distribution of the powers have kept them separate, and declared, that "no person or collection of persons being of one of the departments shall exercise any power properly belonging to either of the others." They have alike reposed confidence in each, have required of each the same moral sanctions, and made each responsible to them for the able and faithful discharge of public duty. The House of Representatives, therefore, by admitting the members from the new counties to qualify and take their seats, acted within their exclusive jurisdiction. The Senate hath thereupon assumed an unwarrantable interference with matters, which the Constitution of the State has wisely allotted to the determination of others. It cannot be perceived how it can be important, in the ordinary action of Legislation, for the separate Houses to be concerned about what are the number of the members of the different branches of the Legislature. Their numbers can in no way interfere with the control which each has a perfect and indisputable right to have, on the proceedings of the other. When any matter passes the House of Representatives, and comes to the Senate, as a coordinate branch of the Legislature, the Senate has the indisputable right to alter, pass, or destroy it at pleasure; and the inquiry how many or who voted for or against it, can never in any form be made. This is equally true when a matter passes the Senate, and goes to the House of Representatives. The number or qualifications therefore, of the members is never susceptible of being inquired into in any other place or at any other time than in the House where the vote is had. The Constitution in its requisitions as to the qualifications of the members, the number necessary for a quorum, and the matters proper for its organization, is wisely directed to each co-ordinate

branch alike; and there reposes it in that confidence which in all governments has to be reposed some where, that in its formation it will obey the Constitution and the oath which it imposes; and the evidence of its doing so is never made in any other form than through those officers which the Constitution has allotted each House to have. The evidences of the constitutional organization of the House of Representatives, and of the Senate, at the commencement of the session, were in this manner reciprocally communicated to each other, and they united in the passage of a joint resolution appointing a jotnt committee to wait upon his Excellency the Governor and inform him that the two Houses had met, formed a quorum, and were ready to proceed to business. That committee performed its duty therein, and each House duly received the Governor's message. The undersigned had hoped that these proceedings gave an earnest of the disposition of the Legislature to enter upon the discharge of their legislative duties, but this hope he soon found was illusory in the manifested disposition of some of the Senators, to inquire into and find fault with the organization of the House of Representatives, and the proceedings of the Senate thereon hath resulted in the senatorial declaration that there is no House of Representatives; and thus concluded this session of the Legislature. This unprecedented procedure is only equalled by the illegitimate and unconstitutional determination to which the Senate came in their declaration of the constitutional inability of the House of Representatives to admit the members from the new counties to qualify and take their seats; and that because of their having done so, that that constituted the House of Representatives, no House of Representatives. If, indeed, it were not denied by the Constitution, the right of the Senators to look into the qualification of the members of the House of Representatives at all, it is manifest by the Constitution to the undersigned, that the members from the new counties, were entitled to appear, qualify and take their seats, and that the House of Representatives could not have done less than to allow this to be done, and for the members from the new counties, to be permitted to join with them in their deliberations.

The undersigned, endeavored, in the desultory remarks which he had the honor to make to the Senate, to expose the fallacy of the postulate on which the said report was predicated, and he hereby protests against the same as being inconsistent with, and violative of, the Constitution of this State. By the said postulate, it is maintained, that

"the terms apportionment of Senators and Representatives in their most general sense, as used in the Constitution, would seem to present themselves with these different phases, viz: Representatives are apportioned among counties, cities, and towns; Senators are apportioned among districts; both are apportioned on free white inhabitants: both are apportioned on certain ratio of inhabitants; both are apportioned with certain limitations to their entire numbers, and both are apportioned with certain relative proportions of numbers to each other; there can be no apportionment nor any variation of an apportionment, but all these relative bearings and compound principles are to be regarded." The undersigned, protesting, would contend that these are true only as to those counties that are in being, and possess a population equal to the ratio fixed by law at the time of making the apportionment. But it is not true as to those counties which are formed after the making of the enumeration, or as to those counties which contain a population less than the ratio; for the constitution interposes the proviso, "that each county shall always be entitled to at least one Representative, involving the principle that as to those counties the bases shall be, the territorial incorporated existence of a county. Indeed there cannot be under the constitution a time at which there is a county in constitutional existence, when the representative principle shall be engaged in legislative action, and when that county is without the right to have its Representative in the Legislature.

Should we interrogate ourselves on this subject, it appears to the undersigned, that the Constitution itself furnishes the true response, thus: when is the enumeration and apportionment to take place? At fixed periods; when are new counties to be created? At any time within the discretion of the Legislature; when are the counties thus created entitled to representation? Each county shall always be entitled to at least one Representative.

The revised Constitution of this State was adopted on the 27th day of October, 1832. At that time the government of the United States had acquired a cession of the Choctaw nation now forming the new counties, and the period was then not regarded distant, when the territory, forming the Chickasaw nation would also be acquired. This State had then already extended its laws and jurisdiction coextensive with its limits. It cannot be conceived a moment that the convention contemplated the refusal to extend to that section of the State the general, great, and essential principles of liberty and free government for the

periods contended for by the said report. This they must have done unless the indicated proviso is permitted to have its common sense effect. The said counties have not only been organized and established, but the burdens of taxation have been imposed upon their inhabitants. Taxation without representation is not only violative of natural right, but points to the feelings of our fathers. But the said report urges that the Governor can only order elections to fill vacancies. The undersigned hath no other idea of a vacancy than an office, or place (legislative or otherwise), without an incumbent. The said counties having been created, and being under the Constitution entitled to representation, it was the legal and bounden duty of the Governor to order the elections, that they might respectively have their Representatives in the Legislature. This he hath done, and thus his benificent endeavors for the natural and constitutional rights of the new counties, have been frustrated. There is only one other subject on which the said committee have reported and to which the Senate hath agreed, which the undersigned feels it his duty to notice. In doing this he is reluctantly compelled to approach it from the matters contained in it, with distrust and dissatisfaction.

The said report reads thus, "another consideration urged upon our attention by the Executive message, (and taken in connection with section 17 of article 7 of the revised Constitution) furnishes, as your committee believe, a legitimate argument in behalf of the interpetation they maintain. The propriety of forming new counties from the Chickasaw Territory, is recommended by the Governor at the present time. The section of the constitution last alluded to, is as follows to-wit: No new county shall be established by the legislature, which shall reduce the county or counties, or either of them from which it may be taken to less contents than 576 square miles, nor shall any new county be laid off of less contents. It is believed that so far as the geographical admeasurment of our State has been ascertained, its area is not less (and perhaps considerably exceeding) 51,000 square miles. By the constitution as last quoted, the competency of the legislature, if now properly in session to adjust the entire territory of the State into counties of 576 square miles each, will not be doubted —suppose this were now done from forty-three counties as at present, their number would be increased to eighty-eight. Extend to each county thus created, an absolute and immediate right to one representative, each in the present legislature without waiting for the period before which

even all the powers of the legislature are incompetent to change the apportionment law; and the result is and must be, that one hundred and nine representatives are introduced into the House at the same time. But we find by the article 3 section 9 of the constitution, that the number of representatives shall not be more than one hundred at any time. And can it be true this further and not merely possible, but almost probable conflict and contradiction is also to be encountered. Such an act would now exhibit the Senate with less than one ninth of such a House of Representatives." The matters of the said report so far as is contained in the foregoing, is directly the converse of what the said committee would maintain. For the avowed object of the convention was to limit the power of the legislature, so that they should not under any circumstances constitute or reduce any county to less contents than 576 square miles, but the power to increase the extent of the old counties, or constitute large new ones was designedly left uncontrolled, nor was it ever contemplated that the project would ever be thought of, nor is it indeed possibly practicable, so to alter the boundaries of the old counties, as thereby totally to break up their organization and destroy their county towns and public buildings, so as the old counties should have all the representation of the State and exercise all the powers of legislation; should the people of this State ever so far forget themselves as to enter upon such a mad project, still the said saving proviso would interpose itself and always provide for each county one representative at least. Nor is the constitution otherwise than, if the area of the State was twice as large as it is and more than one hundred counties were created, that each would be entitled to one representative. But the old and new counties formed and the Chickasaw nation contemplated to be organized, all taken together, involving the organization of the whole area of the State, would by no means create any of the difficulties which the said report labors to manifest. The last apportionment was made on the 25th day of December, 1833. In that apportionment the representatives from the new counties is included; by it the whole number of Representatives in the House is sixty-four. The Senatorial representation twenty. The territory in the Chickasaw nation is equal to the formation of ten additional new counties, adding those, the whole number of representatives would then be seventy-four representatives; even, if the said proviso did not always interpose itself, the relative proportion of never less than one-fourth nor more than one-third, which the senators shall bear towards the representatives

will be preserved. The last enumeration was made in the year 1833. By the 9th section of the 3rd article of the constitution, the legislature shall at periods of not less than every four nor more than every six years, until the year 1845, and thereafter at periods of not less than every four nor more than every eight years, cause an enumeration to be made. If the version of the constitution made by the said report be maintained, the next enumeration will be ordered in 1839, returnable to the biennial session of 1841. When the apportionment will be made for the members of the Chickasaw territory to be admitted at the biennial session of 1843. And the undersigned can perceive the following further ridiculous constitutional deductions from the principles maintained by the said report. 1st.—That there can be no county formed except at the time of the apportionment. 2nd. That there can be no apportionment except on an enumeration. And 3rd. there can be no enumeration without a county. It thus seemingly is to happen, that the population of the Chickasaw territory is never to be permitted to a participation in the legislation of the State, though its inhabitants are at all times to be subject to the burdens of taxation. The undersigned cannot "conceive it possible, that any construction of the organic law can be sound when fraught with such mischieveous inconsistencies, with such palpable and unjust abstractions, nor can he believe that the representatives of a free people, in drafting the constitution with that deep reflection and careful deliberation, which became the members of the convention, in the discharge of the high and solemn trust reposed in them, were capable of intending such violence to the natural rights of the country. The principles maintained by the said report, taken as a whole, are repudiated by the genius of all our institutions. There is nothing in the constitution which denies us the power to extend the right hand of fellowship to the Chickasaw country. The propriety of giving it an immediate organization recommends itself by every consideration that can be interesting to any people. The north met the balance of the State at the present session in the spirit of a perfect harmony and good will. To deny us a proper and early organization of our country, is unkindness. Heretofore, all the incorporations, capital, and facilities, to individual and sectional enterprize and successes have been allotted to other portions of the State than the North. In this we have acquiesced.—But we shall never claim any thing beyond our proper organization and reciprocal equalities. But while these are denied us, we will console ourselves in the confidence that the ceptre will

soon assume its legitimate destination, when we shall have it in our power to right ourselves.

All of which is respectfully submitted.

STEPHEN COCKE.

The President, presented to the Senate, a letter addressed to him, in his official capacity from General P. Rutilius R. Pray, dated Pearlington, January 15th, 1835; enclosing a communication from him, to the legislature on the subject of the revision of the statutes, both of which, on motion of Mr. Hargis, were ordered to be spread on the journals—they are as follows, to wit:

PERLINGTON, *January 15th*, 1835.

To the Honorab.e P. BRISCOE,

President of the Senate:

SIR: Be pleased to lay before the Senate the inclosed communication.

With sentiments of esteem,

I have the honor to be,

Your ob't serv't,

P. RUTILIUS R. PRAY.

To the honorable the Legislature of the State of Mississippi:

Having been elected at your last session to perform certain duties required by "an Act to authorize a revision of the Statute laws of this state," I have thought it proper to report to you the progress that has been made in the work, and the reasons that have prevented its completion. In taking upon myself the discharge of those duties, I relied much on the aid I expected to derive from the dissertations of those distinguished jurists, who have introduced such magnificent improvements into recent legislation, and to whom justice seems fully to have unveiled her mysteries. I expected much assistance, also, from the legislatures of other state, for, although few of them have attempted the formation of a scientific code, yet many have digested, under legislative sanction, those portions of their jurisprudence, which the forming hand of the judiciary had reduced to scientific accuracy.

Before I could avail myself of these aids, time was necessary to make the collection of such as I did not already possess. I early procured all that could be obtained in the neighboring States. The secretary of State kindly extended to me every facility which the records of his office afforded, in furtherance of my labors. Many of the works

however, which I deemed it necessary to consult, were still, unobtained, and could only be partially procured in the cities of the Atlantic States. While the collection of these works was in progress, through the agency of others, I was sedulously engaged in classifying the numerous statutes, and reducing their subject matter into analytic order, under appropriate heads, so as to make them component and consistent parts of one great system.

I never so far overrated my own powers, as to suppose that the duties assigned me, would be executed in the short interval of some nine or ten months; yet I flattered myself that in the event of a special session, parts of the work might be prepared and submitted for legislative consideration and sanction, leaving others to be acted on at a future period. But as I advanced, I found it necessary, from time to time, to turn my attention to the different general divisions of the subject, as I became possessed of the materials I desired; and, experience of the labor, and a closer view of the subject, soon convinced me that it was impracticable.

The attempt to hurry the composition of a work of this kind would but too surely beget confusion and disappointment. The consolidation of numerous statutes into one uniform law, embracing the whole subject of them, requires great care and deliberation. The foundations of the law are to be examined, prior legislation is to be revised and weighed, and the legitimate consequences of the principles embodied, logically deduced. However easy all this may appear to a cursory observer, yet certain I am, that whoever shall attempt the labor, will find an ample field for mental exertion. I found too in establishing the principles upon which the work was to be performed, and tracing the plan of its divisions, that they were so closely connected, that continued reference from the one to the other, was unavoidable, and would render it difficult to judge of, or decide upon, one part without examining the whole.

That the legislature may understand the form that the revised statutes are intended to assume, the principles upon which they are to be framed, and the connection which will subsist between the different parts, I beg leave to state that the work will be presented in four great divisions.

The first will relate to the internal organization and administration of the government, the jurisdiction of the State, and legislative proceedings:

The second, to the acquisition, the enjoyment and the transmission of property real and personal; domestic relations, and other matters connected with private rights;

The third, to courts and ministers of justice, and proceedings in civil cases:

The fourth, to crimes, and punishments, proceedings in criminal cases.

These several divisions will be subdivided into appropriate chapters, titles, and sections.

This general division of the subject has been adopted, not because it is the most scientific, but because it is deemed the most convenient, and is one which the people will readily comprehend, and which, moreover, has received the sanction of many of the most enlightened legislators of our country. Under these several heads, much matter has been digested during the past year, and my whole time will be devoted to the subject, until the duties assigned me are completed. By your next session, I anticipate the pleasure of presenting to your consideration the entire work, clothed with such perfection as my humble abilities and unwearied exertions can bestow.

All of which, &c. &c.

P. RUTILIUS R. PRAY.

Mr. Tracy, moved to print one thousand copies of Mr. Cocke's protest, in connexion with the report of the select committee, (Messrs. Henderson, Harper, and Falconer,) to which the protest refers.

On this motion, some discussion took place.

And, on the question of printing said report of the select committee aforesaid—the yeas and nays were demanded by three members, and were as follows, to wit:

Yeas—Messrs. Cocke, Davis, Hargis, and Tracy—4.

Nays—Mr. President, (Briscoe,) Messrs. Falconer, Henderson, Land, and Quitman—5.

So, said motion to print said protest, in connexion with the said report of the select committee aforesaid, was negatived.

And then the Senate adjourned to 3 o'clock P. M.

THREE O'CLOCK P. M.

The Senate convened pursuant to adjournment.

Mr. Tracy, addressed the Senate, stating that in voting, on a former day, for the adoption of the report of the select committee, (Messrs. Henderson, Harper, and Falconer,) raised on the resolutions of Mr. Henderson, as presented on the 21st of January, instant—he had voted prematurely with the majority; that since the vote referred to, his mind had come to a different conclusion—and requested that he

might be permitted to record the reason, that influenced him in the vote he gave, and those that had operated a change in his mind.

Mr. Quitman, stated that, with a view to meet the views of the Senator from Copiah, and Jefferson, he would move that the secretary, receive the paper containing the reasons of Mr. Tracy. The motion of Mr. Quitman, was sustained, and the paper ordered to be recorded.

It is as follows, to wit:

Mr. President: When the vote was taken on day before yesterday, on agreeing to the Report of the Select Committee, whose duty it was to enquire into and make report, whether the two Houses as now assembled, compose the Legislature of the State of Mississippi, as recognised by the constitution and laws of the land, I had not given the subject that reflection, that its magnitude required, and consequently was not fully prepared to vote on the subject. I was, 'however,' at that time, impressed with a belief, that the unequal proportion existing between the two Houses. interposed an insuperable barrier to a constitutional discharge of their legislative functions; but upon further reflection, I have arrived at different conclusions. 1st. Believing as I now do, that each county, so soon as organized, is entitled to one representative, and that such was the meaning and design of a majority of the framers of the constitution, I entertain no doubt.

That the legislative, the judicial, and the executive departments of our government exist independent of each other, I entertain at this time no doubt. That each department has the exclusive right to judge of the qualifications and elections of its own functionaries, I entertain no doubt.

It has been suggested, that should the present legislature, as now organized, enact laws, that the judges of the superior court, would, (in the event of appeals being taken,) pronounce them unconstitutional; and also, that it would be within their legitimate province to examine the journals of the two Houses, in order to obtain information on this subject, their competeney to do this, I also doubt. I now entertain the opinion that the two Houses, as now assembled, are the Legislature of Mississippi, as recognized by the constitution.

The following message was received from the House of Representatives, by Mr. Cornell, their clerk.

Mr. President: The House of Representatives have given leave to introduce a bill to be entitled "an Act to carry into effect the second section of the seventh article of the constitution."

And then the Senate adjourned to 10 o'clock A. M. to-morrow.

FRIDAY, JANUARY 30, 1835.

The Senate convened pursuant to adjournment, at ten o'clock, A. M.

The Journal of the 29th inst. was read.

The following message was received from the House of Representatives, by Mr. Cornell, their clerk, to wit:

MR. PRESIDENT:

The House of Representatives have unanimously disagreed to the Preamble and Joint Resolution from the Senate, appointing Thursday the 28th January instant, as the day for the adjournment of the two House, *sine die*.

They have also unanimously adopted a Preamble and Joint Resolution, in relation to the adjournment of the two Houses, *sine die*, which is herewith presented, and in which I am instructed to desire the concurrence of the Senate.

The Preamble and Resolution, last aforesaid, are as follows, to wit:

WHEREAS, it appears to this House, from a message from the Senate, dated the 27th day of January, 1835, that that body questions the verity of the message sent them from this House; whereby that body was informed of the meeting and organization of this House, and of the readiness of this House to proceed to business: And whereas, the Senate have recognized the body now assembled in pursuance of the Governor's Proclamation, as the House of Representatives, to be the House of Representatives of the State of Mississippi: And whereas, this House is informed by the message of the Senate aforesaid, that the Senate have passed upon the constitutionality of the organization of the House as a separate and co-ordinate department of the Legislature, which by the Constitution of the State of Mississippi, has the sole and exclusive right to judge of the elections and qualifications, and consequently the right to judge and determine the numbers of this House. AND WHEREAS, This House is constitutionally assembled and organized, the decision which the Senate have assumed to the contrary notwithstanding: AND WHEREAS, The Senate have informed this House, that they will not proceed to do the business of the country, in conjunction with this House, for reasons which appear to this House wholly insufficient, and directly in opposition to the fundamental principles of

the Constitution of the State of Mississippi, and to the principles of every government, pretending to be based upon the equal rights of man. AND WHEREAS, An adjournment of the Legislature at this time, and before it has discharged the important duties which it is expected to perform, would be highly detrimental, perhaps fatal, to some of the most important interests of the citizens of this State :

Therefore, be it resolved, by the House of Representatives of the State of Mississippi, (the Senate concurring,) That the Legislature of the State of Mississippi will adjourn on

1835, *sine die.*

Unanimously adopted by the House of Representatives.

J. CORNELL, *Clerk.*

On motion of Mr. Hargis,

A call of the House was had, and the absent members sent for.

Mr. Hargis then called for the immediate consideration of the Preamble and Resolution, from the House of Representatives, received this day ; the call was sustained; but after some remarks from several of the Senators, Mr. Hargis, by consent of his second, on the suggestion of Mr. Brown, and by the consent of the Senate, withdrew his motion, or call, last named.

Mr. Cocke then moved that the Secretary read the communication, with the Preamble and Resolution, this day received from the House of Representatives, neither of which had been read at the Secretary's table, but had only been read by the clerk of the House of Representatives, at the bar of the Senate, in the usual way on the presentation of messages.

Objections were made by some Senators, to the reading, on the ground that the reading the communication, by the proper officer of the Senate, would be considering the same.

This opinion was dissented from by others;

And after some debate, in which several of the Senators took part,

The Senate decided that the said message and the Preamble and Joint Resolution, which originated in the House of Representatives, and is named in the last part of said massage, should be read.

The same were read, when

Mr. Cocke moved to fill the blank in said Joint Resolution, (to adjourn,) with the words and letters, "one o'clock P. M. this day."

Mr. Quitman objected to the motion of Mr. Cocke, as out of order, and called on the President to decide.

The President stated as the opinion of the chair, that the

reading the communication and Preamble and Joint Resolution, by the proper officer of the Senate, was, in fact, considering the same.

Messrs. Quitman and Falconer dissented from that opinion, and decision.

Messrs. Land, Coke, and Hargis, sustained the chair.

Mr. Quitman stated, that, with much deference for the opinion of the chair, he must appeal from the decision;

But after some remarks from Mr. Land, and explanations between the Chair and Mr. Quitman, the latter withdrew, by consent of his second, (Mr. Falconer,) his appeal.

Mr. Cocke renewed his motion to fill the blank as before stated, in the Joint Resolution, (to adjourn,) which originated in the House of Representatives.

Mr. Falconer said he would make a motion that had the precedence, he believed, to the one made by the Senator from Monroe, Lowndes, and Rankin.

It was to lay the Preamble and Joint Resolution, from the House of Representatives, (relative to adjournment,) on the table;

And said motion of Mr. Falconer was decided in the affirmative.

So the Preamble and resolution, from the House of Representatives, last aforesaid, were laid upon the table.

Mr. Henderson then presented the following resolution, to the Senate, to wit:

Resolved, That ———— be appointed a committee to wait on his Excellency the Governor, and inform him that the Senate assembled pursuant to the Executive convocation on the 19th instant; it met also the House of Representatives as then duly in session under the same convocation; but from a subsequent and unauthorized acquisition of their members, by the sole and separate act of the House, radically changing the existing apportionment of Senators and Representatives, and producing an unconstitutional disproportion of *their* numbers to those assigned to this House, the Senate heve determined, as a rule for its own action, that the body now in session and assembled as the House of Representatives, recognized by the Constitution and laws of the land. And as a consequence thereof, this House, in concert with that body now in session as the House of Representatives, cannot proceed in the discharge of legislative duties:

Wherefore, from considerations of necessity arising from the absence of a House of Representatives with whom to join in the usual manner of adjournment, this Senate will adjourn to day at 4 o'lock, P. M.

I certify that the Senate agreed to the above and foregoing resolutions, this day, 30th January, 1835.

Attest:

J. P. GILBERT,
Secretary of the Senate.

Said resolution was then read by the Secretary, and thereupon Mr. Henderson moved that the Senate do agree to the same.

Mr. Quitman seconded Mr. Henderson's motion.

Messrs. Hargis and Brown objected to said resolution.

Mr. Brown moved the main question on said resolutions, and was sustained in his motion. Said resolution was then put on its passage, and was agreed to by yeas and nays, as follows:

YEAS—Mr. President (Briscoe) Messrs. Davis, Falconer, Harper, Henderson, Land, and Quitman—7.

NAYS—Messrs. Brown, Cocke, and Hargis—3.

So the Senate agreed to said resolution.

And thereupon, the President appointed Messrs. Henderson, Hargis, and Falconer, the committee contemplated in the first part of said resolution.

And then the Senate adjourned to 3 o'clock, P. M.

The Senate convened at 3 o'clock, P. M., pursuant to adjournment, and shortly thereafter, Mr. Henderson as chairman of the select committee appointed to wait on his Excellency the Governor, and inform him that the Senate would adjourn this day at 4 o'clock, P. M., made the following report, to wit:

"Mr. PRESIDENT:

"A majority of the committee, (Mr. Hargis on request, declining to act with them), to whom it was referred to wait upon his Excelleney the Governor and inform him of the resolution of the Senate to adjourn *this day*, at *four o'clock, P. M.*, have performed that duty, and received for answer from the Governor, that he would make to the Senate, a communication, on or before that hour."

And at about the hour of four P. M. the following message was received from his Excellency the Governor, by Upton Miller, Esq. his private Secretary, to wit:

To the President of the Senate:

SIR:

Having received a communication from the House over which you preside, advising the executive that, that branch of the Legislature do not recognize the House of Representatives as a constitutionally organized branch of that body,

and that the Senate "will adjourn to-day, at 4 o'clock, P. M.: This resolution being indefinite, inasmuch as it does not state whether or not the Senate designs adjourning *sine die*, or whether it is designed to adjourn for the space of three days, without the concurrence of the House of Representatives, which they have the right to do,—I am at a loss to know how to reply. Under the provisions of the Constitution, section 22d, article 3d, which declares as follows: "Neither house shall without the consent of the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Now it is clear under this provision of the Constitution, that neither house can constitutionally adjourn for a longer term than three days. And the only mode pointed out by which the two houses can be adjourned without their joint concurrence, is laid down in section 7th article 5th of the Constitution, which provides that "in case of disagreement between the two houses with respect to the time of adjournment," the Governor may adjourn them to such time as he shall think proper, not exceeding the day of the next stated meeting of the Legislature. The right of a bare majority of the Senate, or indeed the entire number of that body, to adjudge of the constitutionality of the House of Representatives, is denied in the broad and unquestionable language of the Constitution, in section 15th, article 3d, of that instrument, which declares as follows: "that each house shall judge of the qualification and elections of its own members." What language can be more clear? Who can doubt the right of each house to organize its own body, and prescribed such rules for their government as they may think proper?

The Executive of this State issued writs of election of one representative from each of the sixteen counties laid off at the last session of the Legislature, and recognized their constitutional right to such representation at that time, and entertains as little doubt of their right at this time. Indeed there is no doubt left on the mind of the Executive, having been sustained by an almost unanimous voice of the House of Representatives, who are the only tribunal known to the Constitution and laws of the country to determine this question, and one, too, of vital importance to the dearest interests of a people who need nothing but important legislation to reader them more happy.

Having been advised, in due form, by a Joint Committee of both Houses, that the Legislature was organized, and ready for the ordinary acts of legislation, the Executive sent to each House his message; and as he then did, is now bound

to recognize them as a Legislature, to all intents and purposes, and cannot recognize the right in either House to dictate to the other branch of the Legislature, or to the Executive, without making too great a sacrifice of the rights of the people whom he, as the Executive, upon this occasion, has the honor to represent. I regret that I have not had sufficient time to state my views at length upon these important constitutional questions, one hour only being allowed since the date of your communication.

Respectfully,

H. G. RUNNELS.

Soon after said message was read by the Secretary, Mr. Land moved that the Senate do *now* adjourn *sine die.*

Mr. Hargis moved to amend the motion of Mr. Land, so as to adjourn on to-morrow at 10 o'clock, A. M.

Mr. Hargis's motion was negatived. And the yeas and nays being demanded, on Mr. Land's motion to adjourn now, *sine die,* were taken, and were as follows, to wit:

YEAS—Mr. President (Briscoe), Messrs. Davis, Falconer, Harper, Henderson, Land, and Quitman—7.

NAYS—Messrs. Cocke and Hargis—2.

So the motion of Mr. Land, was decided in the affirmative; and pursuant to said vote, the President of the Senate, declared the Senate adjourned *sine die.*

Attest:

J. P. GILBERT,

Secretary of the Senate of the State of Mississippi.

SENATE CHAMBER, JACKSON, Friday,
January 30th, 1835.

SATURDAY, JANUARY 31, 1835.

At about 11 o'clock A. M., the following Senators convened in the Senate chamber, to wit:

Stephen Cocke, the senator from the senatorial district composed of the counties of Monroe, Lowndes, and Rankin.

Silas Brown, the senator from the senatorial district composed of the county of Hinds.

Richard A. Hargis, the senator from the senatorial district composed of the counties of Lawrence, Simpson, and Covington.

On motion of Mr. Cocke,

Mr. Brown was called to the chair, and J. P. Gilbert, the secretary of the Senate, was requested to act as secreta-

ry; shortly after, the following message was received from his excellency the Governor, by Col. George R. Fall.

To the Legislature:

WHEREAS, By virtue of the constitutional power in me vested, I did on the 27th November, 1834, issue my proclamation, requiring the members of the Senate and House of Representatives of the Legislature of this State, to convene at the town of Jackson, on the third Monday in January, A. D. 1835:

AND, WHEREAS, In pursuance of said proclamation, a quorum of the two Houses did convene on said day, of which the Executive was officially informed by each House:

AND, WHEREAS, Since that day, to wit, on the 30th of January, A. D. 1835, this department was officially informed that the Senate had, on that day, passed a resolution to appoint a committee, which reads as follows:

"*Resolved*, That ———— be appointed a committee to wait on his Excellency the Governor, and inform him, that when the Senate assembled pursuant to the Executive convocation, on the 19th instant, it met also the House of Representatives, as then duly in session, under the same convocation: but from a subsequent and unauthorized acquisition of the numbers, by the sole and separate act of the House, radically changing the existing apportionment of Senators and of Representatives, and producing an unconstitutional disproportion of their numbers to those assigned to this House, the Senate have determined, as a rule of government for its own action, that the body now in session, and assembled as the House of Representatives, is not, in verity, the House of Representatives recognized by the Constitution and laws of the land. And as a consequence thereof, this House, in concert with that body now in session as the House of Representatives, cannot proceed in the discharge of Legislative duties. Wherefore, from considerations of necessity, arising from the absence of a House of Representatives, with whom to join in the usual manner of adjournment, this Senate will adjourn to-day, at four o'clock, P. M."

"Attest:

"J. P. GILBERT,
"Secretary of the Senate."

[illegible]

"SENATE CHAMBER, 30th January, 1835."

AND, WHEREAS, ALSO, As the Constitution expressly declares, that "neither House shall, without the consent of the other, adjourn for more than three days," the right to make such adjournment, cannot be acknowledged by this department:

AND, WHEREAS, The House of Representatives did, on the 30th January, 1835, communicate to this department, a resolution in the following words:

"*Resolved*, That a committee of five be appointed to wait on his Excellency, the Governor, and inform him that the two Houses of the Legislature have disagreed as to the time of adjournment, and to say to him that this House would be pleased to receive any communication he may think proper to make on this subject.

"Adopted by the House of Representatives, January 30th, 1835.

"JAMES CORNELL, *Clerk*."

AND, WHEREAS, From all these facts and circumstances, it is made manifest, that there is a disagreement between the two Houses, with respect to the time of adjournment, in which case, it is, by the Constitution, made the duty of the Governor, to adjourn them to such time as he may think proper, not beyond the day of the next stated meeting of the Legislature.

AND, WHEREAS, In consequence of the action and decision of the Senate, it is not reasonably to be expected that that body will again proceed to Legislative business, which it is still my opinion, for reasons communicated in my late message to the two Houses, as well as for other reasons, the best interests of the people of the State, imperiously require:

THEREFORE, I, Hiram G. Runnels, Governor of the State of Mississippi, by virtue of the constitutional power, aforesaid, in me vested, do adjourn the Senate and House of Representatives, until the first Monday in January, A. D. 1836, and they accordingly stand adjourned.

Respectfully, H. G. RUNNELS.

On motion of Mr. [illegible],

[illegible]